

**Hon'ble Justice R. J. Shah [Retd.] Fee/Admission (Medical) Committee,  
Behind Polytechnic, Near Five Bungalow,  
Gulbai Tekara, Ahmedabad-15**

No.JRJS/ 377 /2007

Date: 27/06/2007

To,  
The Dean,  
Pramukhswami Medical College,  
Gokulnagar, Kewaramsal

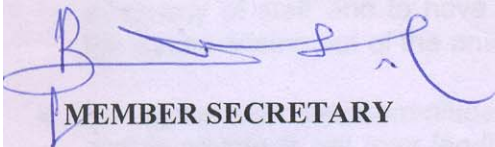
**Sub :- Fee Fixation for the years 2006-07, 2007-08, 2008-09**

Under the directions from the High Court of Gujarat in judgements passed by the Honourable Justice Shri D. A. Mehta on 7<sup>th</sup> December, 2006 while hearing various Special Civil Applications filed by the petitioner colleges as well as under similar order passed in the SCA No. 17856 and 17857, the Committee has considered your proposal for fee structure afresh.

The order passed by the Committee at its meeting held on 20<sup>th</sup> June, 2007 is enclosed herewith along with detailed working in support of the same.

In case you need any clarification or need to make any submission/provide further information, you may approach the Committee by Saturday, 7<sup>th</sup> July 2007.

For Justice R. J. Shah [Retd.] Fee committee (Medical)

  
MEMBER SECRETARY



### **College: The Pramukhswami Medical College, Karamsad**

As per directions of the Hon'ble Supreme Court in the case of Islamic Academic Education & another v/s State of Karnataka & Others on 14<sup>th</sup> August 2003, the Government of Gujarat has set up a Committee vide GR No. SCF/2003/CC-59/S dated 26<sup>th</sup> December 2003, under the Chairmanship of Justice (Retd.) Shri R.J. Shah (hereinafter called "The Committee") to give effect of the judgement in TMA Pai's case.

### **Background:**

- As per the directions in the said judgement, each educational institution must place before this Committee well in advance of the academic year its proposed fee structure. Along with the proposed fee structure, all documents and Books of Accounts must also be produced before the Committee for their scrutiny. The Committee shall then decide whether the fees proposed by the institute are not profiteering or charging capitation fee. **The Committee will be at liberty to approve the submitted fee structure or to propose some other which can be charged by the institute.** The fee fixed by the Committee shall be binding for a period of 3 years, at the end of which the institute would be at liberty to apply for a revision.
- Accordingly the Committee had approved for the first time in June 2004, the fee structure of all the Medical Colleges within the State of Gujarat for the academic years 2003-04, 2004-05 and 2005-06. As per the directions in the said judgement, a revision in the fee structure is due for a further period of 3 years from 2006-07 to 2008-09.

### **Approach and Methodology:**

In the month of December 2005, the Committee, has requested all the unaided institutions imparting professional education in medical and allied sciences in the State of Gujarat to submit their proposed fee structure for scrutiny of the Committee, along with the details as per the detailed questionnaire submitted to each of the institutes.

- The data was then analyzed to arrive at the broad view of the facilities, infrastructure, capital investments made by the college in last 3 years, plans for development on hand and for future, compliance of the requirements concerning the staff etc.
- This was followed by personal visit to all the colleges by the Committee consisting of the member of the fee committee, an eminent Doctor and a member of the team of Chartered Accountants, to verify the facilities and infrastructure, adequacy of staff and to have clarifications and further information on some of the issues arising out of the analysis of the data.
- During the visit, the Committee held discussions with a few of the students and staff in private to get their feedback on specific issues concerning fees, facilities, quality of education etc. The committee also visited the affiliated hospitals to check for the quality of service and care provided to the patients.



- The committee also gave a public hearing to the students, parents association as well as the management of the colleges on 11<sup>th</sup> and 12<sup>th</sup> May 2006.

### **Guiding principles:**

In discharging its functions, the Committee has kept in mind following observations contained in the said judgement of Islamic Academy, which have been reaffirmed recently in the case of P.A. Inamdar & Others v/s State of Maharashtra & Others, on August 12, 2005.

- (a) So far as the question of fee fixation is concerned, the judgement has categorically emphasized that there can be no fixing of rigid fee structure by the Government. Each institute must have the freedom to fix its own fee structure taking into consideration the need to generate funds to run the institution and to provide facilities necessary for the benefit of the students.
- (b) They must be able to generate surplus which must be used for the betterment and growth of the educational institution. Similar observations in the TMA Pai case provides for reasonable surplus for furtherance of education. (Para 69).
- (c) The decision on the fee to be charged must necessarily be left to the private educational institutions who are not depending on the funds from the Government.
- (d) Each institute will be entitled to have its own fee structure. The fee structure for each institute must be fixed keeping in mind the infra-structure and facilities available, investments made, salary paid to the teaching and other staff, future plans for expansion and/or betterment of the institute etc.
- (e) There can be no profiteering and capitation fee cannot be charged.

### **Issues arising and responses:**

During the exercise for revision of the fees, two major issues came up for consideration before the committee:

- (a) Whether the proposed fee structure should be applicable to all the students on roll as of the applicable date or should be applicable to new batch of students to be enrolled from the year 2006-07 ?
- (b) Application of accepted accounting and costing principles and practices for treatment of cost of running a free bed hospital and provision for reasonable surplus for betterment and growth.



The Committee's views are as under :

**(a) Application of revision in the fee structure.**

- Since the judgment in Islamic Academy provides for revision of fee every 3 years, it implies that the fees can be revised based on the cost escalation and provision of additional facilities and infrastructure at regular interval of course not earlier than 3 years, if the concerned institution has applied for a revision.
- In any exercise of price fixation which is based on cost, the revision is applicable to all the beneficiaries for whom the cost is being incurred. In the case of Medical colleges, for instance the fees are fixed based on normal recurring cost of revenue nature which is directly related to education. Since this cost is subject to inflation, a periodic revision becomes necessary, and when the cost is revised, it should be applicable to all the beneficiaries on a given date.
- In case a contrary view is taken to apply the revised fee structure only to the new batch, the fee structure would be enormously high as only one batch of the students will be subjected to bear the additional cost that is being incurred for 4½ batches at any given point of time. This will put the new students in a disadvantageous position.
- As such the Committee thought it just and fair to apply the proposed fee structure to all the students on roll during the period of 3 years from 2006-07 to 2008-09 irrespective of the year in which they were enrolled. In addition, the Committee has also borne in mind the directive of the Supreme Court in T.M.A. Pai's case that there cannot be any cross subsidization of fee in any institution.

**(b) Treatment of Hospital Cost:**

- In the matter of treatment of hospital cost, the Committee has appreciated the need to have a teaching hospital as prescribed by MCI as a precondition to set up a Medical college. However, in the views of the Committee, it is unfair to recover the entire deficit of running the hospital from the students only. In the earlier exercise also, the Committee has suggested sharing of hospital cost between medical care and medical education.
- This year one of the private medical colleges has undertaken a costing exercise from a reputed firm, namely S.B. Billimoria & Company, Chartered Accountants, in support of their proposal for the revision in the fee structure. The said report contains analysis of total cost of medical education which has been overseen by Shri Y.H. Malegam.



- Shri Malegam is one of the most respected and most experienced Chartered Accountant in the country today and a celebrity of international repute. Past President of the Institute of Chartered Accountants of India, Shri Malegam is a Director on the Board of Reserve Bank of India and has chaired several high level committees appointed by the Central Government, SEBI, RBI, ICAI and other bodies in the field of accounts, finance, taxation and corporate governance.
- The Committee has studied the said Billimoria report in detail and found merit in the treatment of some of the costs related to education in general and treatment of hospital cost in particular. As such the Committee has followed the same rationale for all the medical colleges so far as treatment of hospital cost is concerned, which is summarized as under :
  - Excluding the cost of medicine, the expenses related to treatment and blood bank expenses which can be considered as variable expenses specific to patients, the remaining items can be considered as fixed expenses arising from the maintenance of the teaching hospital.
  - For the purposes of this exercise, we have assumed that this fixed cost may fairly be allocated in equal proportion between the cost of medical care and the cost of medical education.
  - Since on an average students spend almost 50% of their time in the hospital, only 50% of hospital expenditure is allocated to medical education.
  - Like wise, since the teaching staff spent almost 50% time in the hospital, we have considered that 50% of the cost of manpower (teaching) can be treated as part of cost of medical care.
  - The cost of medical education may therefore be considered as the direct cost of medical education (as reduced by manpower (teaching) cost allocated to medical care) plus the share of medical care allocated to medical education.
  - The sharing of hospital cost does not arise where the educational institution has a tie up with any other hospital to take their services at a fixed price per student. In such case, the committee has allowed actual amount paid per student to such hospital in determination of the fee structure.



**(c) 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.
- In addition, the Committee has allowed reasonable allowance for growth and betterment in the form of development allowance based on the history of capital investments made by the institute during past 3 years and definite investment plans for growth and development projected by it for next 3 years.

**Review consequent upon the order passed by the High Court of Gujarat.**

1. The Fee Committee had announced the fee structure for 43 Private Unaided Medical, Dental, Physiotherapy and Para Medical Colleges vide its order dated 20<sup>th</sup> June 2006. Aggrieved by the order on the fee structure approved for your college, Parents Association for Medical / Dental Students approached Gujarat High Court seeking for appropriate relief. The Court admitted the matter on 20<sup>th</sup> September 2006 and after hearing the parties, had issued directions for interim relief.
2. The said matter was finally heard by HONOURABLE MR.JUSTICE D.A.MEHTA of THE HIGH COURT OF GUJARAT AT AHMEDABAD. The Honourable Mr. Justice D. A. Mehta by order dated 7<sup>th</sup> December 2007, quashed the fee structure and referred the matter to the Committee for taking a decision afresh. The order also provided for inviting the students of the petitioner institute at the hearing to be fixed for the petitioner.
3. Accordingly, the Fee Committee has given hearing to the college as well as to the students in the month of January 2007. The issues raised by the students are as under.
  - a. The fee approved by the Committee is too high and unreasonable in light of the facilities and infrastructure provided by the College.
  - b. The students also maintained that the cost of running the hospital should not be recovered from the students. They also disputed the report submitted by independent Chartered Accountants so far as the treatment of hospital cost is concerned.



- c. Specific issues on hospital cost include the following.
- i. The hospital cost should not be included in fee structure.
  - ii. Students spend only 40% time in hospital and not 50% as indicated by the Billimoria Report.
  - iii. Full salary cost of teaching staff should not be loaded to students as the same staff work for the hospital also.
  - iv. Income from patients should be considered.
  - v. Expenses incurred for the patients and the members of insurance scheme should not be considered.
  - vi. The deficit should be borne by the trust as it runs hospital for charity.
- d. The fees for the old students must remain the same for the entire duration of the concerned course and no change should be made for them.
- e. The students also raised their demands for reduction of fees in light of some published figures of Rs.90,000 as cost of medical education per student.
- f. The students also complained about levy of additional fees in the name of College Deposit, Caution Deposit, Fees for use Internet, higher charges for issue of identity cards etc.
- g. The college forces to pay fees in advance for the succeeding year before enrolment for the University Examination.
- h. The students complained about the strength of teaching staff, variation in number as on date as compared to the number of staff shown during MCI inspection, absence of regular and permanent staff etc..
4. Since the College has no dispute on the fee structure approved by the Committee, there was no question of resubmission of the proposal for fee structure. However the college submitted reasoning for inclusion of the hospital cost along with the detailed guidelines for maintenance of the teaching bed hospital as a pre-requisite for setting up of a medical college.
5. The College also submitted that out of total cost of medical care i.e. cost of running the hospital, only 40% share is recovered from the students. The balance is met through charges from the patients, donations and the contribution from the trust.



6. Further, in the wake of the complaint about teaching staff by the students, the Committee vide its letter dated 22/3/2007, asked the Management of the College 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.

7. The Committee has reviewed all the papers, documents, staff declarations, cost estimates, past performance and future projections. Based on the review, findings from the personal visits, submissions made by the students and inter college comparison, the Committee would like to report as under.

a. The first significant issue concerns the treatment of the hospital cost. This issue was independently reviewed by Mr. B. M. Shah, the Chartered Accountant Member and Dr. Nitin Vora, the MCI representative in light of observations made by the learned judge in para 4 of the Common Oral Judgment dated 7<sup>th</sup> December 2006. The report in details with the actual workings for the year 2005-06 is given in the Annexure A. In the views of the Committee, the treatment of hospital cost for consideration of the fees approved earlier is just and fair and quite in agreement with the principles of costing.

b. The Committee had fixed the fees on yearly basis purely on the ground of fairness to the students. The Committee has seen that not many colleges have proven track record of meeting the investment projections when compared with actual investments. In view of this fact, any attempt to fix the fees for three years based solely on projections would do injustice to the students in as much as they would pay for projections that lack



certainty and commitment. This approach has been challenged on the ground that the fee structure approved should be valid for the period of three years. As such the Committee now recommends a revised fee structure that is valid for the years 2006-07, 2007-08 and 2008-09. The college is now not expected to approach the Committee on year to year basis. The students would also know the amount of fees they have to pay for next three years.

- c. In fixing the fees for the period of three years as indicated above, the Committee has considered moderate increase for inflation as well as development based on norms framed in light of past history of the college, compliance with statutory requirements as to staff and other infrastructure, growth plans on hand etc. Accordingly, the Committee has fixed the fees for each year separately instead of a common fee for all the three years.
- d. In its earlier order quashed by the Court, the Committee had briefly explained the findings and observations in support of the reduced fee structure. After the review, the Committee finds it necessary to provide full analysis of the accounts, other relevant information and rationale for not accepting the proposed fee structure. Detailed reasoning for your college for working out the base fees has been given in **Annexure C**.
- e. To ensure that the colleges do spend for the growth and development to keep pace with new and emerging trends and technologies, the Committee has thought it proper to include reasonable allowance for development as suggested above. The final fees approved include the same. This is conditional upon the assurance that college will deposit at least 7.5% of the approved fees in a separate account to be utilized for the development of the infrastructure, deployment of new and emerging technology, modernization and up-gradation of the facilities etc. Any unused amount at the end of the year would be utilized as scholarship for the benefit of the students based on merit and economic conditions of the students.
- f. So far as the applicability of the revised fee structure to the students enrolled during 2003-04, 2004-05 and 2005-06 is concerned, the Committee has made its view clear that the revised fees are applicable to all the students on roll as on date. This stand has been upheld by the High Court in its interim order dated 20<sup>th</sup> September 2006. Paragraph 14.3 of the said order reads as under.
  - i. Prima facie I am however, unable to accept the contention of learned advocate for the petitioners that the revised fee should be made applicable only to new students and students who are already studying should be spared such revision. Accepting for such a contention would put additional burden on fresh students. All students, therefore, will bear equal burden of revised fee.



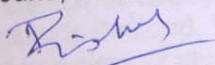
g. In final analysis, the Committee recommends following fee structure.

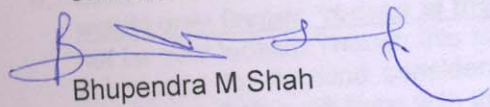
- i. Year 2006-07 Rs. 2,20,000
- ii. Year 2007-08 Rs. 2,45,000
- iii. Year 2008-09 Rs. 2,75,000


**Other conditions to apply:**

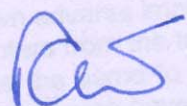
- The college will not take fees for the full course at the time of admission. The fees should be collected per semester.
- The college will not ask for any bank guarantee or security of any kind from students or their parents.
- The college will not take any other fee, deposit, charge or advance in the name of gymkhana, computer center, internet facility laboratory, library, sports, recreation, self development etc.
- The college will be free to fix fees for NRI students up to 15% of the intake capacity subject to intimation of the same to the Fee Committee. All additional fees from NRI students in whatever form will be utilized for the benefit of the students such as from economically weaker section of the society as per the directions given by the Supreme Court in its judgment in the case of P. A. Inamdar and Others v/s State of Maharashtra.

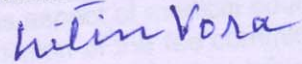
20<sup>th</sup> June, 2007.

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

  
Bhupendra M Shah  
Member

  
Suresh Soni  
Member

  
Smt. Rita Teatia, IAS  
Member Secretary

  
Dr. Nitin Vora  
Member



## Annexure A

### **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 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.

			<b><u>Rs. In lacs</u></b>
Direct Hospital Cost			1276.18
Add: 50% of teaching staff salary			346.79
Total Cost			1622.95
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%.



### Annexure C: Charutar Arogya Mandal:

The Committee has received the following fee structure for the period of three years from 2006-07 to 2008-09 for approval.

Name of the College	Fee Proposed
1. Pramukhswami Medical College Under-graduate course	Rs. 2,90,000
2. KM Patel Institute of Physiotherapy Under-graduate course	Rs. 75,000
3. GH Patel School of Nursing	Rs. 40,000

As explained in the report, the Committee has analysed the information received from the colleges as requested, visited the colleges and the hospital and had given hearing to the management. The Committee also heard Mr. Tehmasp Rustomjee, Senior Director, M/s S.B. Billimoria and Company, Chartered Accountants. who were appointed by the Mandal to recommend a fee structure keeping in mind the principles laid down by the Supreme Court in the judgment of Islamic Academy.

#### Observations and recommendations:

1. Though the actual costing exercise together with the projections for inflation and development surplus explains the hike the college has proposed as indicated above, the Committee has thought it proper to compare the fee structure on global basis also, more so because there are very few colleges in India charging fees in excess of Rs.2,75,000 for under-graduate course in medical science.
2. The Committee is aware that too high a level of fee is not within the reach of all students. Availment of loans from bank or private source has its own adverse implications.
3. The element of charity has to be borne in mind and it enters from the top. Once the cost structure is finalized, the management has to moderate the same to provide for some relief to a class of students who have limited resources and also have limited access to borrowing.
4. Even if we discard all these considerations, **total cost of education beyond a limit would only favour "means at the cost of merit"**. This aspect of medical education can not be over looked. Though this is not within the jurisdiction of the fee committee, it is a submission for the kind consideration of the enlightened management who aspire to benchmark their institutions with the best in the country.
5. The projections for inflation and development has an element of uncertainty and contingency. While it is true that the fee fixed now is valid for a period of three years, it is not fair to accept the projections in its entirety at the beginning of the period of 3 years and work out the fees accordingly. **The matching principle of accounting expects that the cost either precedes revenue or co-exists with revenue. Revenue cannot precede cost and as such fees should not be permitted to be recovered solely on cost projections.** A balance of timing need to be struck. As such the Committee recommends to charge for inflation and development at the end of each year based on the actual increase in the cost and capital investments.
6. In the matter of development allowance, the Committee would like to differentiate between the investments in the nature of projects and investment in the nature of modernization and improvements. The former one need to be met through long term or permanent resources like donations or trust support. It is only the latter one that need to be raised from the students through fees. As such the Committee has not considered



investments for new projects of large size such as constructions of new complex or setting up of a new department for latest development. However depreciation on such capital investments will be eligible for costing purpose.

Based on these criteria, the cost of medical education for the colleges run by Charutar Arogya Mandal based on the cost sheet for the year 2005-06 works out as under.

Rs in lacs						
Sr No	Expenses	Hospital	Medical UG	Medical PG	Physiot herapy	Nursing
1	Salary					
	Teaching	387	569	75	31	19
	Non teaching		189	29	16	
	Total	387	758	104	47	19
2	Electricity	58	25	7	4	1
3	Admin	186	39	14	15	3
4	Other	505	22	33	0	1
5	Depreciation	156	21	26	1	2
	Total	1292	865	184	67	26
	College cost – Direct		865	184	67	26
Less:	50% of salary cost to hospital		285	38	16	10
	Balance		581	147	52	17
Add:	50% of hospital cost share		346	176	34	11
	<b>Total Cost</b>		<b>926</b>	<b>322</b>	<b>85</b>	<b>28</b>
	No of students		450	109	120	75
	<b>Cost per student (Rs)</b>		<b>205,792</b>	<b>295,518</b>	<b>71,242</b>	<b>37,107</b>

Taking 7.5% increase for inflation for the year 2006-07 the proposed fee structure for the base year of 2006-07 would emerge as under.

Medical (UG) Rs, 2,20,000