

A VNS COLLEGE OF PHYSICAL EDUCATION AND  
MANAGEMENT STUDIES AND OTHERS

v.

STATE OF MADHYA PRADESH AND ORS.

B (Civil Appeal No. 13353 of 2015)

NOVEMBER 6, 2015

**[M. Y. EQBAL AND C. NAGAPPAN, J.]**

C *Education / Educational Institutions – Admissions – In*  
*Private Recognized institutions – To the courses of B.Ed. –*  
*By conducting college level counseling and admit students*  
*possessing minimum eligible mark – On the seats lying*  
*vacant after the admission on counseling by the State from*  
D *among the candidates who appeared in the entrance*  
*examination conducted by Vyapam – Permissibility – Held:*  
*Under the Guidelines for admission framed by the state,*  
*counseling was permissible after online registration only to*  
*those students who had participated in the entrance exam*  
E *conducted by Vyapam – Against the total seats of 53,865 in*  
*the State of Madhya Pradesh, counseling of 63,406*  
*candidates (all the candidates who participated in the*  
*Vyapam examination), was conducted – Despite four rounds*  
*of counseling by the State, vacancy of 50% seats shows that*  
F *the candidates are not interested in getting admission in those*  
*colleges – Thus, in view of the above facts, the appellants /*  
*petitioners colleges cannot be allowed to conduct a college*  
*level counseling and admit students, who have not appeared*  
*in the entrance exam – Appeals dismissed.*

G CIVIL APPELLATE JURISDICTION : Civil Appeal No.  
13353 of 2015

From the Judgment and order dated 23.07.2015 of the

H

High Court of Madhya Pradesh Principal Bench at Jabalpur in A  
Writ Petition (C) No. 11069 of 2015

WITH

W. P. (C) No. 674 of 2015 & B

C.A. Nos. 13355-13357 of 2015

Vikas Singh, Sr. Advocate, Ravi Kant, Mayank Manish,  
Chandra Prakash, Advocates, for the Appellants.

Arjun Garg, Manish Yadav, Advs., for the Respondents. C

The Judgment of the Court was delivered by

**M. Y. EQBAL, J. 1.** Leave granted.

2. Heard Mr. Vikas Singh, learned senior counsel D  
appearing for the appellants / writ petitioner and Mr. Arjun Garg,  
learned counsel appearing for the respondents.

3. In all these applications the appellants/petitioner, E  
private recognized institutions are aggrieved by the impugned  
orders passed by the High Court of Madhya Pradesh refusing  
to pass an interim order directing these institutions for  
conducting counseling and admission to the students F  
possessing minimum eligible marks. In other words, these  
appellants/petitioner seek permission to conduct college level  
counseling to fill up the left over vacant seats. The grievance  
of the appellants/petitioner is that because of the alleged  
arbitrary decision of Higher Education Department seats in  
these institutions have been left vacant. G

4. It appears that by the impugned decision taken by the  
Department of Higher Education, admission to students have  
been restricted to only those students who have appeared in  
the entrance examination conducted by Vyapam and is not H

A open for all students possessing the minimum eligibility marks from the qualifying examination and also opposed the request for college level counseling.

B 5. The contention of the appellants / petitioner are that the counseling by the respondent Department is being conducted in complete derogation of various mandatory provisions of Admission Rules 2008 framed by the State Government itself under the provisions of Madhya Pradesh Niji Vyavsayik Shakshan Sansthan Adhiniyam 2007 where  
C under it is provided that if after two rounds of counseling, the seats are left vacant in the private unaided colleges then the admission process would be open for all the students having minimum eligibility criteria and having minimum marks in the qualifying examination. It is pleaded that it further provides  
D that "College level counseling" shall also be permitted to be carried out by the concerned college itself for filling its vacant seats.

E 6. It has further been contented by the appellants that despite almost more than 50% seats are lying vacant in their institutions, the respondent authorities have till date restricted the admissions to only those students who have appeared in the entrance examination conducted by Vyapam and not opened for all students possessing the minimum eligibility  
F marks from the qualifying examination and have also proposed no program for college level counseling. Although respondent authorities have conducted almost three round of counseling, the seats are lying vacant in their institutions. Our attention was drawn to the decision dated 26.09.2014 of this Court passed  
G in Civil Appeal No. 5914 of 2011 and concerned writ petitions and pleaded that this Court had directed the State Government of Uttar Pradesh to conduct the Counseling and allot students to the vacant seats.

H 7. The contention of the respondent-State of Madhya

Pradesh is that the State Government has issued circular for A  
counseling for admission in B.Ed., M.Ed. etc. courses in private  
institutions. The entrance examination for such examination  
is conducted by the Professional Examination Board. For the  
academic session 2015-2016, 63406 students participated B  
in the examination conducted by Vyapam. It has been further  
submitted that under the Guidelines for admission framed by  
the State, an online registration is compulsory for all students  
who desired to participate in the counseling which was to be  
conducted after the entrance test. The Registration for first C  
round counseling was held from 18.5.2015 to 28.5.2015 and  
three rounds of counseling were completed between 9.6.2015  
to 29.6.2015. Thereafter, additional round of counseling was  
also conducted in July, 2015, for which all students were  
allowed / permitted to get the online registration subject to the D  
only condition that they have participated in the entrance  
examination. According to the respondents, against total  
seats of 53,865 in the State of Madhya Pradesh for B.Ed.  
course, 63,406 students were allowed online registration.  
Despite four rounds of counseling, seats in the appellant E  
colleges are remaining vacant, which means that the students  
are not interested in getting admission in these colleges. It  
has been further submitted that the entire pool of students who  
had participated in the Vyapam examination has been  
exhausted, and as such, no further counseling can be permitted F  
now.

8. In the background of all these facts, we do not find  
any reason to grant any interim relief to the appellants / petitioner  
to conduct a college level counseling and admit the students G  
who have not even appeared in the entrance test. These  
applications are, therefore, dismissed.