
The Hands off IIMs Movement

Hands Off IIMs

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LIST OF DATES

1961-1998: During this period, six Indian Institutes of Management were set up, under the provisions of the Societies Registration Act, 1860 (hereinafter to be referred as "the Act") namely –

Indian Institute of Management, Ahmedabad
[1961]

Indian Institute of Management, Calcutta
[1961]

Indian Institute of Management, Bangalore
[1973]

Indian Institute of Management, Lucknow
[1984]

Indian Institute of Management, Kozhikode
[1996], and

Indian Institute of Management, Indore
[1998].

The Memorandum of Association of I.I.M. Societies empower the Central Government, the State Government and I.I.M. societies to exercise powers within the limitations stated therein and in accordance with the provisions

of the Act. Clause 3(h) of the Memorandum of Association provides that Society can fix and demand such fees and other charges as may be laid down in the Bye-law made under Rules of Society. Clause 3 (v) permit the Society to maintain a Fund which comprises of all monies provided by the Central and State Governments, all fees and other charges received by the Society, all moneys received by the Society, by way of grants, gifts, donation, benefactions, bequests or transfer and all moneys received by the Society, in any other manner or from any other sources. Rule 4 of the Rules provide that the General Superintendence, direction and control of the affairs of the Society, and its income and property shall vest in the Governing body of the Society, which shall be called the Board of Governors. Rules 14 of the Rules further provide that the Board by resolution can delegate to the Chairman, Director, Secretary and other Officers and Staff of the Board such of its powers for the conduct of the affairs of the Board as it may consider necessary or desirable.

As it is, though the Society is incurring an approximate expenditure of more than Rs.3 lacs per student per year, the fee charged is only approx. Rs.1.50 to 1.75 lacs per student per year. The grants made by the Central & State Govts. are not sufficient to meet the entire funding of the Institute and Society meets the deficit out of resources generated by contributions made by its alumni as also grants made by Industrial houses and benevolent philanthropists. Therefore, any reduction in fee will further aggravate the financial viability of the IIMs and lead to the standard of education being lowered in the Institutes. The Society, if it wishes to maintain the present excellence and standard on account of which it has earned a name, will have to further strive to raise resources.

05.02.2004:Even though as stated above, the Central or the State Govts. are not meeting the entire funding of the Institute and only a part of the maintenance and developmental expenditure are incurred by the Central Govt. yet the Central Govt. has chosen to

aggravate the situation when the Respondent No.3 at the instance of the Central Govt., issued the impugned order directing the Chairman Board of Governors and Directors of Indian Institutes of Management to reduce the fees charge by the Indian Institutes of Management from Rs.1.5 Lakhs (approx.) to Rs.30,000/- per annum. The Central Govt. has not undertaken to meet the entire deficit incurred by the Society. Unless and until the Central Govt. undertakes to meet the entire funding of the Institute, it has no power to compel the Institute to lower the fees charged from the students and to incur further deficit. The standard in the various Institutes have improved on account of the fact that the Society and the Board of Governors were able to persuade the Industrial Houses to make donations/ grants and thus were able to impart education and facilities to the students comparable to the best institutions in the world.

27.02.2004:A Writ Petition No.63/2004 filed by one Sandeep Parekh and ors. Vs. Union of Indian

and ors. came up for hearing before this Hon'ble Court. On the oral statement given by the Counsel for the Central Government that it will make up for the loss of funds due to fee reduction, Writ Petition was disposed of in terms of the Statement of the Counsel for the Central Government. Unfortunately, it was not brought to the notice of the Court that the impugned order dated 05.02.2004, and the procedure adopted for passing such an order per se was illegal and in violation of Article 3(h) and Article 5 of Memorandum of Association, which is the basis on which Indian Institute of Management have been established.

19.03.2004:It was suggested in some of the statements emanating from the high functionaries of the Central Government that no undertaking has been given on behalf of the Central Government on 27.2.2004 before this Hon'ble Court in the said proceeding. Accordingly I.A. No.3 in the said Writ Petition (Civil) No. 63/2004, was filed. When the matter came up for hearing, the Central Government

refused to give any undertaking. Accordingly this Hon'ble Court was pleased to recall its earlier order dated 27.02.2004 disposing of the said writ petition and the writ petition was restored.

Since various aspects of the matter was not placed before this Hon'ble Court, the petitioners are filing the instant Writ Petition.

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
CIVIL WRIT PETITION NO. _____ OF 2003

IN THE MATTER OF:

1. Prof. Vipin Gupta,
S/o Shri Surendra Nath,
R/o 57, Engineers Enclave,
Road No.44,Pitampura,
Delhi-110 034.

2. Mr. Shashi Bhushan Singh,
S/O Late Shri Shiv Shankar Singh,
R/O 5/1232, Viram Khand,
Gomti Nagar,
Lucknow 226 010 (U.P).

3. Mr. Kamal Sharma
S/o. Mr. Nek Ram Sharma
Flat No.1578, Sector- B, Pocket -1,
Vasant Kunj,
New Delhi - 110 070. ...PETITIONERS

VERSUS

1. Union of India,
through the Secretary [T],
Department of Secondary & Higher Education,
Ministry of Human Resources Development,
Government of India, Shastri Bhawan,
New Delhi-110001.

2. Union Minister for Human Resources Development,
Government of India, Shastri Bhawan,
New Delhi-110001.
3. Joint Secretary [T],
Department of Secondary & Higher Education,
Ministry of Human Resources Development,
Government of India, Shastri Bhawan,
New Delhi-110001.
4. Indian Institute of Management,
Vastrapur, Ahemdabad-380015
[Gujarat] ...RESPONDENTS

WRIT PETITION UNDER ARTICLE 32 OF THE
CONSTITUTION OF INDIA FOR ENFORCEMENT OF
FUNDAMENTAL RIGHTS GUARANTEED UNDER
ARTICLE 14 OF THE CONSTITUTION OF INDIA.

TO

HON'BLE THE CHIEF JUSTICE OF INDIA
AND HIS COMPANION JUDGES OF
THE SUPREME COURT OF INDIA

The humble petition of the
Petitioners abovenamed,

MOST RESPECTFULLY SHOWETH:

[1] That this is a Petition under Article 32 of the
Constitution of India challenging the order dated

05.02.2004 issued under the seal and signature of Shri V.S. Pandey, Joint Secretary, Ministry of Human Resource Development, Government of India, whereby the fees charged by the Indian Institute of Management, Ahemdabad from the students of Post Graduate Programmes have been directed to be reduced from near about Rs.1,50,000/- per year to Rs.30,000/- per year, the same being violative of Article 14 of the Constitution of India and also in violation of the provisions in the Memorandum of Association of the I.I.M.'s societies and also in violation of the law laid down by this Hon'ble Court in T.M.A. Pai Foundation and Islamic Academy matters.

[2] That the petitioner no. 1 herein passed out from IIM, Ahmadabad in the year 1990 and was a gold medallist. Presently, the petitioner is International Business Scholar [Grand Valley State University]. He has also obtained Doctorate i.e. Ph.D. from Wharton School in the year 1998. He is also a visiting faculty at I.I.M, Indore and I.I.M., Bangalore. The petitioner No.1 being a alumni of the IIM, Ahmadabad, also makes financial contribution to the Institute from time to time and is vitally interested in seeing that his alma mater continues to maintain high standard and academic

excellence on account of which it has earned a name for imparting quality education in the field of Business Management and is comparable with any Institution imparting similar education any where in the world. I.IM. Ahemdabad has acquired a reputation throughout the world and on that account attracts the best talent both in the form of students as also faculty positions. The petitioners are interested in seeing that the Institute continues to impart education in the field of management of highest standard so as to compete with best Institutes of the world and makes a name for itself in the field of management.

[3] That the Petitioner Nos.2 & 3 are almunii of the Indian Institute of Management and are very much interested in protecting the standards of the Institution which has been built and achieved world fame over a period of time. The petitioners are genuinely interested that the high standard of the institution is maintained.

[4] That the respondents herein are State within the meaning of Article 12 of the constitution of India and therefore, susceptible to the writ jurisdiction of this Hon'ble Court under Article 32 of the constitution of India.

[5] That in order to appreciate the various contentions raised by the Petitioner herein, it is necessary to state the following few facts in brief.

[6] That the Indian Institute of Management (herein after referred to as IIM) at Ahmedabad, Bangalore, Calcutta, Lucknow, Kozhikode and Indore, were registered as societies under the provisions of the Societies Registration Act, 1860 during the period 1961 to 1998. Each IIM has its own Memorandum of Association and Rules. The Central Government, the respective State Government in which the concerned IIM is located, and representatives of Industry and other statutory authorities are members of the Governing Body of the Society. The Memorandum of Association of I.I.M. Societies empower the Central Government, the State Government and I.I.M. societies to exercise powers within the limitations stated therein and in accordance with the provisions of the Act. Clause 3(h) of the Memorandum of Association provides that Society can fix and demand such fees and other charges as may be laid down in the Bye-law made under Rules of Society. Clause 3 (v) permit the Society to maintain a Fund which comprises of all monies provided by the Central and State Governments, all

fees and other charges received by the Society, all moneys received by the Society, by way of grants, gifts, donation, benefactions, bequests or transfer and all moneys received by the Society, in any other manner or from any other sources. Rule 4 of the Rules provide that the General Superintendence, direction and control of the affairs of the Society, and its income and property shall vest in the Governing body of the Society, which shall be called the Board of Governors. Rule 5 prescribes composition of the Board of Governors. The Board of Governors shall consist of in all together 26 members including an officer of the Institute nominated by the Board to work as ex-officio Secretary of the Board. Rules 14 of the Rules further provide that the Board by resolution can delegate to the Chairman, Director, Secretary and other Officers and Staff of the Board such of its powers for the conduct of the affairs of the Board as it may consider necessary or desirable. A true copy of the Memorandum of Association and Rules of the I.I.M, Ahmedabad is annexed as Annexure-P-1.

[7] That the relationship between the Central Government, the concerned State Government of the State in which the IIM is located and the concerned IIM

Society is governed by the provisions of the Memorandum of Association, Rules, Byelaw and Societies Registration Act, 1860, and is distinguishable from the other Government Colleges and Institutions where there is no Society to conduct the affairs of the Government College/ Institutions. In the case of such Government Colleges, the Government being the owner like any private owner has powers to issue directives/ orders & the Government Colleges are bound to comply with such Government directives/orders. The situation in case of IIM's is different from such Government Colleges as the property and management of the Institute vests in the I.I.M Society and not in the respective State Govt. or the Central Govt. The Central Government has power under the Memorandum of Association to issue directives to the IIM Society only after following the procedure prescribed in Article 5 of the Memorandum of Association. Therefore, the condition precedent for exercise of power by the Central Govt. as prescribed in Article 5 has to be complied with before any directive is given by the Central Govt. to the Society. In any event the Central Govt. has no power to issue any direction either to the Board of Governors or The Director of the Institute. The

Central Government has not been empowered to issue directions to the Director of any IIM.

[8] That Article 3(h) of the Memorandum of Association of IIM Ahmedabad specifically empower the IIM Ahmedabad Society to fix and demand such fees as laid down in the Bye-Laws. Article 3(h) of the Memorandum of Association is as under:-

“(h) to fix and demand such fees and other charges as may be laid down in the Bye-Laws made under the Rules of Society.”

[9] That Article 5 of the Memorandum of Association empowers the Central Government to issue directives pertaining to “Work”, “Progress”, “Affairs” of the IIMs by following a procedure which involves:-

- (a) Consultation with the State Government i.e. the Government of Gujrat, in the case of IIM Ahmedabad.
- (b) Appointing one or more persons to review the work and progress of the Society.
- (c) Hold an enquiry into the affairs of the Society.

- (d) And issue direction to the IIM Society based on the findings of the review/enquiry committee.
- (e) Article 5 of the Memorandum of Association is as under:-

“The Central Government in consultation with the State Government may at any time appoint one or more persons to review the work and progress of the Society or the Institute and to hold an enquiry into the affairs thereof and to report thereon, in such manner, as the Central Government may stipulate. Upon receipt of any such report, the Central Government in consultation with the State Government may take such action and issue such directions as it may consider necessary in respect of any of the matters dealt with in the report regarding the Society or the Institute, as the case may be, and the Society shall be bound to comply with such directions.”

[10] That the Central Government cannot usurp and exercise the powers vested in the IIM Society under Article 3(h). The power to levy fee is to be exercised by the Society in accordance with the Bye-laws made

under the Rules of the Society and the Central Govt. can not give any direction in this regard.

[11] That as stated in the preceding paras, the Central Government is empowered under Article 5 to issue direction to the IIM Society on issues relating to work and progress of the Society or the Institute only. The Central Govt. has not been vested with any power to make any enquiry in relation to fee to be charged by the Society for imparting various Post Graduate courses to the students. Since the power to fix fees has been conferred on the IIM Society, the Central Government has no power to give any direction in this regard. The Central Govt. can exercise only those powers with regard to the functioning of the Institute which have been expressly provided under the Memorandum of Association and the Rules and to the extent to which the powers have been specifically conferred upon the Central Govt. The matter of prescription of fee or the fee structure has not been specifically conferred upon the Central Govt. and therefore, the impugned order is ultra vires, without jurisdiction and amounts to undue interference in the day to day functioning, administration and autonomy of the Institute, and therefore, the impugned order is liable to be set aside.

It is respectfully submitted that to prescribe a reasonable fee structure, a part of administration. It is further submitted that reasonable fee structure has to provide for need to generate funds to be utilized for the betterment and growth of the educational institutions, revenue surplus, revenue & capital expenses, loans or borrowings, salary payable to teaching and non-teaching staff and the expenses incurred on providing proper facilities and equipments as also further facilities and amenities to be provided by the institute in future to the students. Thus, the reasonable surplus generated for the furtherance of education, which is also a component of fee structure, is permissible.

[12] That on 5th February, 2004, the respondent no. 3, Mr. V.S. Pandey, issued an order, purporting to be an order from the Central Government, directing the I.I.Ms to fix the fees for the post-graduate programmes at Rs.30,000 per annum only. It was further directed that no other charges/fee should be levied from the students in addition to the prescribed fee except for mess charges. It was further directed that the revised fee structure will take effect from the academic session 2004-05. The said letter was addressed to:

1. The Chairman,
Board of Governors of Indian Institutes Management,
Ahmedabad, Bangalore, Kolkatta, Lucknow,
Indore and Kozhikode

- 2 The Directors,
Indian Institutes of Management,
Ahmedabad, Bangalore, Kolkatta,Lucknow,
Indore and Kozhikode

A true copy of the order dated 5th. February,2004 of the respondent No.3 is annexed as Annexure-P-2.

[13] That it is respectfully submitted that the said fee has been fixed in violation of the powers vested in the Central Government under Article 5 and in violation of the powers vested in the IIM Society under Article 3(h). The Central Government did not consult any State Governments nor it appointed any person to review the work/progress or enquire into the fee fixation issue nor amended the provisions of Article 3(h) of the Memorandum of Association.

[14] That it is further submitted that without prejudice to the foregoing, in the absence of any overriding power conferred upon the Central Govt. or the power to issue directions to the I.I.Ms/ Institute, the Central Government can not determine fee which is contrary to and/or inconsistent with the fee fixed by the Management of the Institute.

[15] That reliance by the respondent No.3 in the impugned order on the judgment of this Hon'ble Court in the case of Dr. T.M.A Pai's case, is misplaced one. In fact the judgment in TMA Pai's case reported in (2002) 8 SCC 481 lays down exactly the contrary positions of law. The Court there had held that fees charged should be reasonable and so long as there is no illegal profiteering an educational institution could charge reasonable fees.

[16] That the Petitioners herein have not filed any other Writ Petition seeking similar relief either before this Hon'ble Court or in any High Court on any earlier occasion.

[17] That the Petitioners herein are preferring the instant Writ Petition in this Hon'ble Court, on amongst others, on the following:

G R O U N D S

[I]. Because the power to fix the fees is within the exclusive domain of the Society in terms of Article 3[h] of the Memorandum of Association, which specifically provides that the Society shall fix and demand such fees

and other charges as laid down in the Bye-laws made under the Rules of Society. Thus the Central Govt. cannot usurp the power not vested in it.

[II]. Because it is respectfully submitted that the Institute is to be run by the Society registered under the provisions of the Act in accordance with the provisions of the Memorandum of Association, Rules, Bye-laws and Regulations framed thereunder. The Memorandum of Association and the Rules do not confer power on the Central Govt. to control or interfere with the internal administration, day to day affairs and autonomy of the Institute. The Institute can not be directed and compelled by the Central Govt. to charge a particular fee and incur further financial losses. The central govt. is not meeting the entire expenses in running the Institute. The grant made by the Central Govt. is not sufficient to meet the entire budget of the Institute and the deficit is met by the Society by raising donations, grants from the Industrial Houses as also private

individual. In this view of the matter the Institute can not be compelled to compromise with the standard and quality of education by incurring losses and in the process to wipe out the fund generated from its own resources to meet the growing cost of imparting quality education.

[III]. Because the Central Govt. can exercise only such power which has been vested in it under the Memorandum of Association and the Rules. Admittedly no power has been conferred upon the Central Govt. to give any direction to the Society/Institute regarding the fee to be charged by the Institute from the students for imparting post-graduate diploma courses.

[IV]. Because without prejudice to the foregoing, in the absence of any overriding power conferred upon the Central Govt., or the power to issue direction to the Institute, the Central Govt. can not determine fee which is contrary to and/or inconsistent with the fee fixed by the Society.

[V]. Because it is also submitted that even in purported exercise of power under Article 5 of the Memorandum of Association, the Central Govt. can not give any direction either to the Society or the Institute to charge a particular fee as power under Article 5 can be exercised only to review the work and progress of the Society or the Institute and that too after complying the procedure prescribed therein. Admittedly in the instant case, the condition precedent prescribed for exercise of power under Article 5 of the Memorandum of Association. Was not followed and hence the direction contained in the impugned order as contained in annexure-P-2, can not be construed to be one under Article 5 of the said Memorandum of Association.

[VI]. Because it is respectfully submitted that the Central Govt. cannot usurp and exercise the powers vested in the IIM Society under Article 3(h). The power to levy fee is to be exercised by the Society in accordance with the Bye-laws made under the Rules of the

Society and the Central Govt. can not give any direction in this regard.

[VII]. Because the Central Govt. in any event while giving the direction to charge a particular fee on a lower side has not given consideration to all relevant facts and in particular the actual annual revenue shortfall of the Institutes and thus, the afore mentioned step of the Government is a retrograde step towards imparting quality education. It will ultimately adversely affect the academic excellence for which to-day the I.I.M, Ahmedabad is known world over. It also overlooks the adverse financial impact and on the viability of quality of education and other facilities being provided by the Institute to the students.

[VIII]. Because even in view of the judgment in the matter of TMA Pai Foundation Vs. State of Karnataka, whereby it has been held that the State, which grants aid to educational institution, can impose such conditions as are necessary for the proper maintenance of high

standards of education but nevertheless at the same time, it has to be ensured that those conditions should be limited for the promotion of the good administration and it should also be ensured that these institutions does not become totally Government Owned and Controlled Institutions and interfere with the constitution of a Governing Body without reference to the Management.

P R A Y E R

It is, therefore, most respectfully prayed that your Lordships may graciously be pleased to issue notice to the respondents herein and after hearing them allow this petition; and:

- i) issue an appropriate writ/writs, order/orders or direction/directions quashing and setting aside the order dated 05.02.2004 of the Respondent No.3 as contained in Annexure-P-2 to the present Writ Petition;
- ii) Issue an appropriate writ/writs, order/orders or direction/directions restraining the respondents 1 to 3 herein from interfering in day to day

affaire, internal administration and/or autonomy of the Institute, and;

- iii) pass any other writ/writs, order or orders which your Lordships may deem fit and proper in the facts and circumstances of this case as well as in the interest of justice.

AND FOR THIS ACT OF KINDNESS, THE PETITIONERS SHALL EVER BE GRATEFUL.

DRAWN & FILED BY:

[L.R. SINGH]
ADVOCATE-ON-RECORD
FOR THE PETITIONERS

New Delhi;
Dated: __.03.2004.

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
CIVIL WRIT PETITION NO. _____ OF 2004

Prof. Vipin Gupta, MBA [IIM.A]Petitioners

Versus

Union of India & Ors.Respondents

A F F I D A V I T

I, Mr. Kamal Sharma, S/o. Mr. Nekram Sharma, 1578 sector B, Pocket -1, Vasant Kunj, New Delhi-110070, New Delhi, do hereby solemnly affirm and state as under:-

1. That I am Petitioner No.3 in the aforesaid matter and as such, I am conversant with the facts and circumstances of the case and hence, am competent to swear the instant affidavit.
2. That I have read a copy of the accompanying Writ Petition [paras 1 to 15] [p.'__-__'], List of Dates [p.'B-D'], Interlocutory Applications and having understood the contents thereof, I say that the facts stated therein are true to my knowledge.
3. That the annexures are true copies of their respective originals.

4. That the Writ Petition Paper book contains total ___ pages.

5. That the facts stated in the above affidavit are true to my knowledge. No part of the same is false and nothing material has been concealed therefrom.

DEPONENT

VERIFICATION:

I, the abovenamed deponent do hereby verify that the facts stated in the above affidavit are true to my knowledge. No part of the same is false and nothing material has been concealed therefrom.

Verified at New Delhi on this the 24th day of March, 2004.

DEPONENT

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

I.A. NO._____/2004

IN

CIVIL WRIT PETITION NO._____ OF 2004

Prof. Vipin Gupta & Ors. ...Petitioners

Versus

Union of India & Ors. ...Respondents

APPLICATION FOR STAY/DIRECTIONS

TO

HON'BLE THE CHIEF JUSTICE OF INDIA

AND HIS COMPANION JUDGES OF THE

SUPREME COURT OF INDIA.

The humble petition of the
petitioners abovenamed,

MOST RESPECTFULLY SHOWETH:

[1].That the aforesaid petitioners are today filing the accompanying Writ Petition in this Hon'ble Court under Article 32 of the Constitution of India, challenging the order dated 05.02.2004 issued under the seal and signature of Shri V.S. Pandey, Joint Secretary, Ministry of Human Resource

Development, Government of India, whereby the fees charged by the Indian Institute of Management, Ahemdabad from the students of Post Graduate Programmes have been directed to be reduced from near about Rs.1,50,000/- per year to Rs.30,000/- per year. The petitioners have every hope of its success in this Hon'ble Court as they have a prima facie good case on merits.

[2]. That the detailed facts leading to the filing of this petition have already been stated in the accompanying Writ Petition and the same are not being repeated here for the sake of brevity and to avoid repetitiveness. However, the petitioners crave leave of this Hon'ble Court to permit the petitioners to refer and rely upon the same at the time of hearing of the instant application.

[3]. That it is respectfully submitted that the said impugned order is violative of Article 14 of the Constitution of India and also in violation of the provisions in the Memorandum of Association of the I.I.M.'s societies and also in violation of the law laid down by this Hon'ble Court in T.M.A. Pai Foundation and Islamic Academy matters.

[4]. That it is respectfully submitted that the Central Government cannot usurp and exercise the powers vested in the IIM Society under Article 3(h). The power to levy fee is to be exercised by the Society in accordance with the Bye-laws made under the Rules of the Society and the Central Govt. can not give any direction in this regard.

[5]. The Central Govt. has not been vested with any power to make any enquiry in relation to fee to be charged by the Society for imparting various Post Graduate courses to the students. Since the power to fix fees has been conferred on the IIM Society, the Central Government has no power to give any direction in this regard. The Central Govt. can exercise only those powers with regard to the functioning of the Institute which have been expressly provided under the Memorandum of Association and the Rules and to the extent to which the powers have been specifically conferred upon the Central Govt. The matter of prescription of fee or the fee structure has not been specifically conferred upon the Central Govt. and therefore, the impugned order is ultra vires, without jurisdiction and amounts to undue interference in the day to

day functioning, administration and autonomy of the Institute, and therefore, the impugned order is liable to be set aside.

[6]. Because the power to fix the fees is within the exclusive domain of the Society in terms of Article 3[h] of the Memorandum of Association, which specifically provides that the Society shall fix and demand such fees and other charges as laid down in the Bye-laws made under the Rules of Society. Thus the Central Govt. cannot usurp the power not vested in it.

[7]. That it is respectfully submitted that since the petitioners are filing the instant Writ Petition in this Hon'ble Court and they have a good case on merit and further there is every likelihood of their succeeding in this Hon'ble Court, it is in the interest of justice that during the pendency and till final disposal of the petition of the petitioners, the operation of the impugned order as contained in Annexure-P.2 be stayed, failing which, the institute will suffer irreparable harm and injury. As it is, the fees being charged from the students is not enough to meet the cost of education and the institute is

required to meet its deficits out of its own resources raised from donations raised from industrial houses and private individuals. Therefore, if the operation of the impugned order is not stayed, the institute will have to incur further financial losses.

[8]. That the balance of convenience is in favour of the institutes of management as admission process for the current year 2004-2005 has already commenced and the students have already been selected for admission. In May, 2004, the selected students will be sent admission letters, who have qualified for admission and they will also be required to deposit the fees and complete the necessary documentations. Therefore, the students should also know the fees which they are expected to deposit. The new academic session will start in June 2004 and if, therefore, the operation of the impugned order is not stayed, the institute will be compelled to charge only such fees as has been directed by the Central Govt. and thus, in the event of this petition being allowed, it will become difficult for the institute to recover the difference of fees from the students, which will further create

additional financial burden on the institute and thus, the present petition will become infructuous.

[9]. Therefore, in the facts & circumstances described hereinabove, it is in the interest of justice that the operation of the impugned order be stayed. In the event the operation is stayed, no one will suffer irreparable harm and injury as the institute is charging present fee structure for a number of years and no one has made any grievance in this regard particularly when the poor and needy students are given liberal loans on concessional rate of interest. In addition, the deserving students are also given scholarships by the institute and therefore, the alleged poor students are not likely to suffer.

P R A Y E R

It is, therefore, prayed that your Lordships may graciously be pleased to allow this application; and:

- (a) pass an ad-interim ex-parte order staying the operation of the impugned order dated 05.02.2004 issued under the seal and signature of Shri V.S. Pandey, Joint Secretary, Ministry of Human Resource Development, Government of

India as contained in Annexure-P.2 to the instant Writ Petition, during the pendency and till final disposal of the petition of the petitioners by this Hon'ble Court;

- (b) pass an ad-interim ex-parte order restraining the respondents 1 to 3 herein from interfering in day to day affairs/functioning, internal administration and/or autonomy of the Institute, during the pendency and till final disposal of the petition of the petitioners by this Hon'ble Court;
- (c) make the said order absolute after hearing the parties; and
- (d) pass any other order/orders as this Hon'ble court may deem fit and proper in the facts and circumstances of the case as well as in the interests of justice.

AND FOR THIS ACT OF KINDNESS, THE
PETITIONERS SHALL EVER PRAY.

DRAWN & FILED BY:

[L.R. SINGH]
Advocate on Record
for the Petitioners.

New Delhi;
Dated: __.03.2004.

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

CIVIL WRIT PETITION NO. _____ OF 2004

[Petition under Article 32 of the Constitution of India]

Prof. Vipin Gupta & Ors. ...Petitioners

Versus

Union of India & Ors. ...Respondents

WITH

I.A.NO. _____ OF 2004
An application for Stay/ Direction.

PAPER BOOK

[FOR INDEX KINDLY SEE INSIDE]

ADVOCATE FOR THE PETITIONERS: L.R.SINGH

I N D E X

1.	List of Dates.	A- F
2.	Writ Petition with Affidavit.	1-21
3.	ANNEXURE-P-1 A true copy of the Memorandum of Association and Rules of the I.I.M, Ahmedabad dt.Nil.	22-39
4.	ANNEXURE-P-2 A true copy of the order dated 5 th . February,2004 of the respondent No.3	40-41
5.	I.A.No._____OF 2004 An application for Stay/Direction.	42-48

The Hands off IIMs Movement

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