

IN T HE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.10.2015

CORAM :

THE HON'BLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

W.P. No.27083 of 2015

and

M.P.No.1 of 2015

Stanes Anglo-Indian Higher Secondary School,
Rep. By its Correspondent,
Mrs.Mercy Oomen.
Coimbatore - 641 018.

...Petitioner

-vs-

1. State of Tamilnadu,
Rep. By its Secretary,
Education Department,
Fort St. George, Chennai.
2. Private Schools Fee Determination Committee,
Rep. By its Chairman,
DPI Campus, College Road, Chennai.
3. The Director of School Education,
DPI Campus, College Road,
Chennai.
4. Inspector of Anglo Indian Schools,
DPI Campus, College Road,
Chennai.

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5. Parents Association Stanes School,
TM House Building, 1st Floor,
T.V.Swamy Road, West End,
R.S.Puram, Coimbatore.

...Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari to call for the connected records leading to the issue of impugned order dated 17.06.2015 by the 2nd respondent and quash the same as illegal and void.

For Petitioner : Mr.V.Parthiban
for M/s.Paul & Paul

For Respondent : Mr.D.Krishnakumar,
Spl.G.P. For R-1
: Mr.P.Sanjay Gandhi,
Addl.G.P. for RR 2 to 4
: M/s.Malarvizhi Udayakumar for R-5

O R D E R

(Order of the Court was made by The Hon'ble Chief Justice)

On perusal of the counter-affidavits and hearing the submissions of the learned counsel for the parties, it appears that the controversy in question is not being appreciated by the respondents in the correct perspective.

2.The Inspector of Anglo Indian Schools had issued a show cause notice dated 28.11.2014. The petitioner had filed a reply to the same dated 12.01.2015. The Fee Determination Committee also issued a show cause notice on 25.11.2014. It is the case of the petitioner that the matter has to be enquired into by the Inspector of Anglo Indian Schools and thus, aggrieved by the notice of the Fee Determination Committee, he approached the High Court by filing W.P.No.2621 of 2015, which was disposed of on 12.02.2015 with the direction that the Committee may consider the petitioner's representation dated 06.02.2015 and pass an order in accordance with law.

3.The Fee Determination Committee took into consideration the claim of the petitioner that it is to be excluded from the

purview of the Fee Determination Committee and issued notice to all the concerned parties on 10.03.2015. On 22.04.2015, the Fee Determination Committee took note of the submission of the petitioner that their claim had to be decided under Code 69 by the Inspector of Anglo Indian Schools and the occasion for the Fee Determination Committee to go into any issue did not arise, as the fee fixation was yet to be ordered by the Inspector of Anglo Indian Schools. It was also observed that it was for the Inspector to accelerate his proceedings of fixation of fee under Code 69.

4. On 17.06.2015, the Committee passed an order qua collection of excess fee taking into consideration the show cause notice dated 28.11.2014 of the Inspector. The grievance of the petitioner in the present petition is that the said document was only a show cause notice and an order had yet to be passed and only on passing of such an order, would the occasion arise for the Committee to exercise any jurisdiction.

5. We may also note that the fee was fixed in the year 2013 by the Inspector, which is to remain in force for three years till 2016, but in case any school claims some additional fee on account of other facilities, that has to be determined by the Inspector.

6. We have repeatedly asked as to which is the order passed by the Inspector, but the only answer given by the learned counsel appearing for respondents 2 to 4 is that the show cause notice has been issued. That is the reason we say there is a complete misconception, as the show cause notice cannot be an order. Reply has been submitted to the show cause notice and the Inspector / 4th respondent is required to pass an order, whereafter the matter can be examined by the Committee, if there are still allegations of excess fee being charged.

7. We are, thus, of the view that the occasion for the committee to exercise any jurisdiction has not even arisen and thus, the impugned order dated 17.06.2015 in respect of collection of excess fee is quashed with a direction to the fourth respondent to pass an order in accordance with law within a maximum period of two (2) months from today and that order can then be placed before the Committee for purpose of record. In case, thereafter there is any complaint that excess fee is being charged, would the occasion arise for the Committee to assume jurisdiction.

8.Writ Petition, accordingly, stands allowed with the aforesaid direction. No costs. Consequently, M.P.No.1 of 2015 stands closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

sra

To

1. The Secretary,
State of Tamilnadu,
Education Department,
Fort St. George, Chennai.
2. The Chairman,
Private Schools Fee Determination Committee,
DPI Campus, College Road, Chennai.
3. The Director of School Education,
DPI Campus, College Road, Chennai.
4. Inspector of Anglo Indian Schools,
DPI Campus, College Road, Chennai.

1 CC to M/s.Malarvizhi Udayakumar, Advocate SR.No. 57444

1 CC to M/s.Paul & Paul, Advocate SR.No. 57249

1 CC to the Government Pleader, SR.No. 57161

W.P.No.27083 of 2015

JSV (CO)
PSI (26.10.2015)