

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.1924 of 2004

Date of Decision.05.01.2015

Pardeep Kapoor and others

.....Petitioners

Versus

Panjab University and another

.....Respondents

Present: Mr. Nasib Singh Gill, Advocate
for the petitioners.

Mr. Siddharth Sharma, Advocate
for the respondents.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ? Yes
2. To be referred to the Reporters or not ? Yes
3. Whether the judgment should be reported in the Digest? Yes

-. -

K. KANNAN J.

1. The writ petition in CWP No.1924 of 2004 relates to fee prescribed for LLB students for Panjab University, Regional Centre at Ludhiana. The petitioners' grievance is that the University charges for its own students at the University campus at Chandigarh at ₹ 4400/- while the fee for the Regional Centre at Ludhiana for the year 2003-04 was ₹ 32,000/-. The fees at yet another learning centre at Mukatsar established by the Panjab University was ₹ 4440/-. The petitioners would, therefore, contend that if the Panjab University was establishing institutions in various places, there could not have differential tuition fees. If at all there was any distinction between the University campus at Chandigarh on the ground that they had already established infrastructure and therefore, no additional expenditure was required to be incurred, the petitioners would contend that the learning centre

established by the Panjab University at Mukatsar had a scale of fee at par with its own campus university fee. This, according to the petitioners, was an illustration of the arbitrary nature of levying fees.

2. The response to the petitioners' grievance is that when there was a demand for setting up an additional education facility, the expenditure that was required to be incurred in new place was considered and the Senate took a decision that the regional centre would be established at Ludhiana on self-financing basis. The facilities had to be established at huge costs and the fee was determined after deliberations of what would secure an appropriate return for the investment made. Mukatsar was relatively a smaller place than Ludhiana and the fee structure had also to be considered in the light of the affordability and the infrastructure that was necessary in that place.

3. This position has been considered by the Full Bench of this Court in CWP No.17752 of 2005 that had considered the rationale of the decision laid down in TMA Pai Foundations Vs. State of Karnataka (2002) 8 SCC 481 and still later judgment in Islamic Academy of Education and another Vs. State of Karnataka and others (2003) 6 SCC 697. The said decision held that the State which is obligated to ensure that the educational standards are set on uniform basis at national level ought to provide for sufficient play in the joints of educational institutions which were being run without any assistance from the State. The State itself could not undertake the mammoth task of providing education by establishing institutions all across India and the private initiative was seen to be very relevant for establishing institutions and make them viable. It was held in the said judgment

that a Committee will be set up with a Judge of High Court as its Chairman and persons drawn from the academia and chartered accountants to call for representations from various institutions and determine fees for each year. In this case, the determination was after due deliberations by resolution of the Senate. I cannot find any arbitrariness in such an exercise. The decision in Islamic Academy of Education itself makes no distinction between a private unaided institution and an institution run by the University on self-financing basis. The categorization is only a State run institution and unaided private institutions. University which is established under statute cannot be treated at par with State except perhaps for consideration of University as an instrumentality of the State for the amenability of writ jurisdiction. Otherwise University or Board established by statute enjoy autonomy of administration and University that may or may not draw funds from the State for establishing an educational institute or learning centre ought to have an independence to determine the fee that is payable.

4. I will find no reason for making an intervention in favour of the petitioner and I find nothing arbitrary about the decision to charge higher fee at the regional centre at Ludhiana. The writ petition is dismissed.

(K. KANNAN)
JUDGE

January 05, 2015
Pankaj*