

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 2345 OF 2016

Pratap Memorial Charitable Trust, Gondia, thr.its Secretary and another

-vs-

The State of Maharashtra, thr.its Secretary, Deptt.of Higher & Technical Education & another

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. B.G.Kulkarni, counsel for the petitioners.
Mr.V.P.Maldhure, AGP for the respondent No.1.
Mr. Ranjit Bhuihar, counsel for the respondent No.2.

CORAM : SMT. VASANTI A. NAIK &
MRS. SWAPNA JOSHI, JJ.

DATE : 08.07.2016.

By this writ petition, the petitioners challenge the order of the Management Council of the University, dated 31/12/2015, so far as it rejects the claim of the petitioners for deciding the structure and quantum of additional fees that could be charged in the college of the petitioners from the students, as the College is not receiving the non-salary grants from the Government.

The petitioner No.1 is an Educational Institution that has established several colleges of learning. On 04/02/2008, the State Government, took a policy decision to provide at least one grant-in-aid college in each taluka and by this decision, the State Government decided to provide grant-in-aid only in respect of salary and not in respect of the non salary expenditure. The petitioner No.2-College at Salekasa was established in the year 2008-09 and the State Government had extended grant-in-aid to the petitioner No.2-College, to the extent of salary, as per the policy decision. It is the case of the petitioners that by the Government Circular, dated 08/09/2015, the Registrar of all Non Agricultural Universities were directed to fix the amount that could be charged by the Colleges from the students, after considering their actual non-salary expenditure. In pursuance of the Government Circular, dated 08/09/2015, the petitioners applied to the respondent No.2-University for fixing the rates of additional fees that could be charged by the College from the students towards the actual non-salary expenditure incurred by the College. The respondent No.2-

University, by the impugned communication, dated 15/02/2016 informed the petitioners that the petitioners would be entitled to charge only the tuition fees that could be charged from the students in a grant-in-aid College. Since by the said communication, the University has conveyed that the Colleges would be entitled to recover only the tuition fees as are prescribed in grant-in-aid Colleges, the petitioners have filed the instant petition seeking a direction against the respondent No.2 to decide the structure and quantum of additional fees to be charged by the petitioners from the students towards the non-salary expenditure.

Shri B.G.Kulkarni, the learned counsel for the petitioners, submitted that in view of the Government Circular, dated 08/09/2015, it was necessary for all the Non-Agricultural Universities to restructure the fees after taking into consideration the non-salary expenditure incurred by the Colleges/Institutions. It is submitted that though the petitioner No.2-College receives grant-in-aid towards salary, there is a lot of other expenditure that is required to be incurred by the Management as non-salary expenditure. It is stated that in view of the State policy, as reflected in the Government Circular, dated 08/09/2015, it was necessary for the University to fix the quantum of the fees that could be charged by the Colleges from the students towards the non-salary expenditure, actually incurred by the Colleges. It is submitted that by the impugned communication, the respondent No.2-University has informed the State Government that the Colleges would be required to charge only the fees that are fixed for Colleges receiving grant-in-aid thereby rejecting the claim of the petitioners in totality. It is stated that the directions issued by the State Government vide Circular, dated 08/09/2015 are not followed by the respondent No.2 in the true letter and spirit while passing the impugned order.

Shri Bhuibhar, the learned counsel for the respondent No.2-University, has supported the order passed by the respondent No.2. It is submitted that the respondent No.2 has fixed the fees, inasmuch as the impugned order reflects that the petitioners and/or the other Colleges would be entitled to charge the fees that are liable to be paid by the students taking education in grant-in-aid Colleges. It is stated that the other expenditure incurred by the College cannot be recovered.

On hearing the learned counsel for the parties, we find that the respondent No.2 has not decided the matter of fixation of the amount that could be recovered by the petitioners from the students towards the actual non-salary expenditure incurred by them. We find on a reading of the Government Circular, dated 08/09/2015 that all the Non-Agricultural Universities were directed by the State Government to fix an amount that is equivalent to the other necessary expenditure, that is incurred by the Colleges, apart from the expenditure towards salary. By the impugned order, the respondent No.2 has only permitted the petitioners to charge the fees that are liable to be charged from a student taking education in a fully grant-in-aid College. The order passed by the respondent No.2 is an eye wash and the same is not in compliance with the circular of the State Government, dated 08/09/2015. When the State Government has asked the Non-Agricultural Universities to fix the amount that could be recovered by the Colleges towards the actual non-salary expenditure incurred by them, it was necessary for the respondent No.2 to fix the additional fees. The respondent No.2 should have fixed the amount that was incurred by the petitioners towards the actual non-salary expenditure and passed an appropriate order.

Hence, for the reasons aforesaid, we quash and set aside the impugned order and direct the respondent No.2 to take appropriate decision in the matter, in accordance with the directions issued by the State Government in Circular, dated 08/09/2015 within a period of four months.

Order accordingly. No costs.

JUDGE

JUDGE