

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 1678 OF 2017
IN
WRIT PETITION NO. 8204 OF 2015**

Kumar Pal Jain	... Applicant
Versus	
Hutchings High School and others	... Respondents

**WITH
WRIT PETITION NOS. 2818 OF 2015, 2821 OF 2015,
3777 OF 2015, 4647 OF 2015 AND 4648 OF 2015**

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Ms. Shirin Merchant a/w Ms. Disha Nagrani for the Applicant.
Ms. Gauri R. Raghuvanshi for Respondent No.1.
Mr. C.P. Yadav, AGP for State
Mr. Amogh Singh a/w Harsh Behani i/b Maniyar Srivastav
Associates for Petitioner in W.P. Nos. 2818/2015, 2821/2015,
3777/2015, 4647/2015 and 4648/2015.
Mr. Anukul Seth i/b M.V. Thorat for Applicant in CAW 1711/2015.

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**CORAM : ANOOP V. MOHTA AND
SMT. BHARATI H. DANGRE, JJ.**

DATE : 15th SEPTEMBER, 2017.

FINAL ORDER :

1. This Civil Application is taken out by the Petitioner-Applicant in Writ Petition No. 8204 of 2015 and prayed to restrain Respondent No.1-school from enhancing the fee beyond the 2015-2016 rates and also prayed for direction to recall the school fee slips so issued.

2. As this Court has already directed and tagged all these matters where constitutional validity of the Maharashtra Educational Institutions (Regulation of Fees) Act, 2011 ('the Act') is challenged and related issues revolving the power of management to enhance the fee structure is raised. Therefore, considering the urgency and the pendency of issues itself, we are inclined to list all these matters for final disposal within three weeks.

3. In view of pendency of the issues, the entitlement of the management to enhance the fee structure within the frame work of law, just cannot be curtailed. Therefore, at this stage, subject to further order of this Court and the adjustment if any, we are inclined to order on the same line which we have adopted after hearing the parties in order dated 29th September, 2015 in Writ Petition No. 8204 of 2015 and 9173 of 2015 (para 3), which is reproduced as under;

“3. In the meantime, the learned counsel appearing for the Petitioners/management in Writ Petition No.9173/2015 and Respondents in Writ Petition No.8204/2015, on instructions, makes statement that there will be no enhancement of fee structure for the next academic year 2016-2017. The fee so increased for

the academic year 2015-2016 to continue for the academic year 2016-2017. The learned counsel appearing for the Petitioners makes statement on behalf of the parents/Petitioners in Writ Petition No.8204/2015 that they will deposit fee for the first quarter as demanded, within two weeks and they will pay the entire amount as increased. The management to take necessary steps for the same. It is made clear that this will be subject to further hearing and disposal of the writ petitions and also subject to adjustment, if any.”

4. The aforesaid order has been enforced by subsequent order dated 28th October, 2015, and 02nd December, 2016. Therefore, we are inclined to pass order as an interim arrangement till the final decision and subject to further order of this Court in following terms.

- (a) In the circumstances, the school is permitted to collect the fee for the year 2017-2018 which would be the fee of the previous academic year 2016-2017 plus an amount not exceeding 15% thereof. It is made clear that it will be without prejudice or subject to further order of this Court and adjustment, if any.
- (b) That the parents to co-operate in this regard as the management just cannot continue to maintain and run the institution without such charges/fee which are within the framework of law.

5. The main Writ Petition along with other connected Writ Petitions be placed for hearing on 6th October, 2017.
6. The issue is pending since long, and in view of involvement of the students/parents, we are directing the respondents to file reply/affidavit and affidavit-in-rejoinder/additional affidavit so also short synopsis and submissions, if any, before the next date of hearing.
7. Civil Application is disposed of, accordingly. No costs.

(BHARATI H. DANGRE, J.)

(ANOOP V. MOHTA, J.)