

Ladda(PS).

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8519 of 2017

P.A. Inamdar & Ors

..Petitioners.

Vs

State of Maharashtra & Ors

..Respondents.

Mr. S.R. Ganbavale, Advocate for the Petitioners.

Mr. C.P. Yadav, A.G.P. for Respondent No. 1 and 2.

Mrs Neha Bhide, Advocate a/with Ms. Shilpa Madki Advocate for the Respondent No.3.

Mr. R.A. Rodrigues a/with Dushyant Kumar for Respondent No.5.

CORAM : ANOOP V. MOHTA AND

SMT. BHARATI H.DANGRE, JJ.

DATE : 8th September, 2017

FINAL ORDER :-

1) Rule. Rule is made returnable forthwith. Heard finally by consent of parties.

2) The petitioners have invoked jurisdiction of this Court under Article 226 of the Constitution of India and thereby challenged the impugned unreasoned order dated 9th June, 2017 passed by the Regulating Authority under Maharashtra Unaided Private Professional Educational Institutions (Regulation of Admissions and Fees) Act, 2015 (for short, "Regulation of Fees Act"), whereby respondent No.3 (the authority) decided the fees structure of the petitioners' institutions (Item

No. 2, Serial No.301 of “Exh.I”).The petitioners being aggrieved by the same preferred the review application on 23rd June, 2017. The same was disposed of by unreasoned order dated 6th July, 2017 (Item No.2, Sr.No.316, “Exh.K”) by putting an endorsement “reasons to follow separately”. It is recorded that the orders will be passed separately. The learned Counsel appearing for the petitioners made a statement that no separate order has been received by the petitioners till the date of filing of the present writ petition even in the main matter. It appears that there is no reasoned order passed by the authority till this date.

3) The learned Counsel appearing for the Respondents Authority, however, submitted that order rejecting the review was forwarded on 15th July, 2017. In any way, the said order is now placed on record today. We have seen that there are no reasons provided while disposing of the review application also. The fact that there was no reason given while deciding the main application, till this date that itself goes to the root of the matter. Such decision on the review application in no way change the basic principle of law of providing the reasons while passing and/or adjudicating main issue of reasonable fees. The concerned authority is under an obligation to consider the facts and circumstances and the materials placed on record by the parties for adjudication of “reasonable fees” as contemplated under the Regulation of Fees Act. Any order passed without assigning any reason and deciding the review

application in such a fashion is unsustainable. Therefore, we are inclined to interfere with the decisions taken by the Fees Regulatory Authority against the petitioners. Both orders dated 9th June, 2017 and 6th July, 2017 are required to be quashed and set aside. Therefore, it is also necessary for the Authority concerned to decide the main application already filed by the petitioners, as early as possible, preferably within a period of two weeks from today and pass a reasoned order by giving opportunity to the petitioners and without further delay. The writ petition is disposed of accordingly.

ORDER:

- (a) Impugned orders dated 9th June, 2017 and 6th July, 2017 are hereby quashed and set aside;
- (b) The petitioners original application for revision of fees be decided within a period of two weeks from today by giving fresh opportunity of hearing to the petitioners, in accordance with law;
- (c) The rule is made absolute accordingly; and
- (d) No order as to costs.

All the concerned to act upon an authenticated copy of this order:

(SMT. BHARATI H.DANGRE,J)

(ANOOP V. MOHTA,J)