

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 25.07.2017

Coram

THE HONOURABLE Mr. JUSTICE M.VENUGOPAL  
AND  
THE HONOURABLE Mr. JUSTICE P.D.AUDIKEVALU

W.P.No.26043 of 2014 &  
M.P.No.1 of 2014

Bala Vidya Mandir Senior Secondary School,  
Rep. by its Honorary Secretary,  
58, Fourth Main Road,  
Gandhi Nagar, Adyar,  
Chennai-600 020. ... Petitioner

Vs.

1. State of Tamil Nadu,  
Rep. by the Additional Chief Secretary,  
Department of School Education,  
Secretariat, Chennai-600 009.
2. The Special Officer,  
Private Schools Fee Determination Committee,  
DPI Campus, College Road,  
Chennai-600 006. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records of the second respondent and quash the order dated 20.12.2013 in respect of the petitioner-School.

For Petitioner : Mr.Amizhdhu  
Mr.M.Elumalai GA for R1

For Respondents : Mr.P.Sanjai Gandhi,  
Additional Government Pleader for R2

O R D E R

[Order of the Court was made by P.D.AUDIKESSAVALU, J.]

The petitioner, viz., Bala Vidya Mandir Senior Secondary School, following C.B.S.E. pattern of education, has questioned the order dated 20.12.2013 passed by the Private School Fee Determination Committee under the provisions of Tamil Nadu Schools (Regulation of Collection of Fee) Act, 2009.

2. The Division Bench of this Court by order dated 21.09.2012 in W.P.No.15373 of 2011 and etc., batch [Lakshmi School vs. State of Tamil Nadu], has held that C.B.S.E. schools are "private schools" within the meaning of Section 2(j) of Tamil Nadu Schools (Regulation of Collection of Fee) Act, 2009 and the provisions of that Act are applicable to C.B.S.E. schools and under Section 7 of that Act, the Schools Fee Determination Committee has the power to determine the fee and verify whether the fee collected by the C.B.S.E. schools is commensurate with the facilities provided by the school and while so determining the fee, the Committee shall keep in view the parameters in Section 6, Section 3(3) and 7(3) of the Act.

3. It is brought to the notice of this Court by Mr.P.Sanjai Gandhi, learned Additional Government Pleader that C.B.S.E. Schools have preferred Special Leave Petitions before the Hon'ble Supreme Court of India in petitions for Special Leave to Appeal(C)No.16 of 2013 and etc., against the aforesaid decision and that an interim order dated 28.01.2016 had been passed by the Hon'ble Supreme Court of India in the aforesaid batch of cases, which reads as follows:-

" Leave granted.

In modification and supersession of our interim order dated 15.01.2015, we direct that I.C.S.E and C.B.S.E. Schools, the regulatory mechanism of the Fee Committee shall be limited, during the pendency of the present controversy, to the one contemplated under Section 7 (3) of the Tamil Nadu Schools (Regulation of Collection of Fees) Act, 2009."

4. When the Writ Petition was taken up for hearing Mr.Amizhdu, learned counsel appearing for the petitioner submitted that by passage of time, the academic year (2012-2013) during which the fees had been fixed by the second respondent has lapsed.

5. In the light of the aforesaid subsequent developments, we are not expressing any opinion on the correctness or otherwise of the impugned order passed by the second respondent during the academic year 2012-2013. However, we make it clear while exercising the powers under Section 7(3) of the Tamil Nadu Schools (Regulation of Collection of Fees) Act, 2009, for verifying the correctness of the amount of fees collected by the petitioner and taking any action for collection of excess fees from the current academic year (2017-2018) onwards, the Private School Fee Determination Committee shall not be influenced by the findings in the impugned order and that orders in that regard passed by that Committee shall be on merits and in accordance with law and shall be subject to any further orders that may be passed by the Hon'ble Supreme Court of India in the aforesaid proceedings.

6. With the aforesaid observations, the Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Additional Chief Secretary,  
Government of Tamil Nadu,  
Department of School Education,  
Secretariat, Chennai-600 009.
  2. The Special Officer,  
Private Schools Fee Determination Committee,  
DPI Campus, College Road,  
Chennai-600 006.
- +1cc to the Government Pleader, S.R.No.53270

W.P.No.26043 of 2014 &  
M.P.No.1 of 2014

SAI (CO)  
CU(08/08/2017)