

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.18495 of 2012 &
M.P.No.1 of 2012

Good Shepherd International School,
Rep. by the Principal,
Dr.P.C.Thomas,
M.Palad Post,
Ootacamund-643 004.

.. Petitioner

Vs.

1.State of Tamil Nadu,
The Secretary to Government,
Education Department,
Fort St. George, Chennai.

2.The Chief Educational Officer,
Udhagamandalam, The Nilgiris District.

3.The Committee,
Private Schools Fee Determination Committee,
Chennai-600 006.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Declaration, declaring that the provisions enacted under the Tamil Nadu Private Schools (Regulation of Collection of Fee), Act, 2009 is not applicable to the petitioner-School and any order passed or direction issued by the third respondent in pursuant to the fixing of the fees for the petitioner-School as invalid.

For Petitioner : Mr.A.L.Somayaji, Senior Counsel
For Mrs.Narmadha Sampath

For Respondents : Mr.P.Sanjai Gandhi
Additional Government Pleader

ORDER

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

The petitioner, viz., Good Shepherd International School, which is functioning under the I.C.S.E. pattern of education has sought a declaration that the provisions enacted under the Tamil Nadu Private Schools (Regulation of Collection of Fee), Act, 2009 is not applicable to the petitioner's School and any order passed or direction issued by the Private Schools Fee Determination Committee fixing the fee for the petitioner-School as invalid.

2. The Division Bench of this Court by order dated 21.09.2012 in W.P.No.28305 of 2010 and etc., batch [**Lakshmi School vs. State of Tamil Nadu**], has held that I.C.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 I.C.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 I.C.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. The aforesaid decision squarely applies to the case of the petitioner as well and resultantly, the relief as claimed in the Writ Petition cannot be granted. However, it is brought to the notice of this Court by Mr.P.Sanjai Gandhi, learned Additional Government Pleader that I.C.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.A.L.Somayaji, learned Senior Counsel appearing for the petitioner submitted that by passage of time, the academic year (2010-2011) during which the fees had been fixed by the third 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 order bearing Rc.No.8/PSFD/PC/2010, dated 07.05.2010 passed by the third respondent during the academic year 2010-2011. At the same time, 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 aforesaid order dated 07.05.2010 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. Accordingly, the Writ Petition is dismissed with the aforesaid observations. No costs. Consequently, connected miscellaneous petition is closed.

(M.V., J.) (P.D.A., J.)

25.07.2017

Index : Yes.

Speaking Order

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M.VENUGOPAL, J.
and
P.D.AUDIKEVALU, J.

r n s

To

- 1.The Secretary to Government,
Government of Tamil Nadu,
Education Department,
Fort St. George, Chennai.
- 2.The Chief Educational Officer,
Udhagamandalam, The Nilgiris District.
- 3.The Committee,
Private Schools Fee Determination Committee,
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