

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 613 OF 2018

|                                  |   |  |
|----------------------------------|---|--|
| 1. Khed Taluka Vidyarthi         | } |  |
| Palak Sangh                      | } |  |
| A society registered under the   | } |  |
| provisions of Maharashtra        | } |  |
| Societies Registration Act,      | } |  |
| 1860, having its office at       | } |  |
| Padalwadi, Po. Rajgurunagar,     | } |  |
| Tal. Khed, Dist. Pune, through   | } |  |
| its Chairman/Secretary-          | } |  |
| Balasaheb Shankar Sandhbhor,     | } |  |
| Age-45 years, Occ. Business-     | } |  |
| Journalist, R/at Po.-            | } |  |
| Rajgurunagar (Padalwadi),        | } |  |
| Tal. Khed, Dist. Pune            | } |  |
|                                  | } |  |
| 2. Kiran Kamlakar Khude          | } |  |
| Age-39 years, Occ. Business/     | } |  |
| Journalist, Vice Chairperson     | } |  |
| of parents Teacher Association   | } |  |
| (E.P.T.A.) of the Khed Taluka    | } |  |
| Education Society's English      | } |  |
| Medium School at                 | } |  |
| Rajgurunagar, R/at Po. -         | } |  |
| Rajgurunagar Shastri Chowk,      | } |  |
| Nr. Rajgurunagar Bank,           | } |  |
| Tal. Khed, Dist. Pune            | } |  |
|                                  | } |  |
| versus                           |   |  |
| 1. State of Maharashtra,         | } |  |
| (copy to be served on the office | } |  |
| of Ld. Advocate General,         | } |  |
| since validity of the Act and    | } |  |
| its provisions are under         | } |  |
| challenge                        | } |  |
| High Court Bombay)               | } |  |
|                                  | } |  |
| 2. The Deputy Director of        | } |  |
| Education @ Secretary of the     | } |  |
| Divisional Fee Regulatory        | } |  |
| Committee, Pune Region, Pune.    | } |  |

Petitioners

|                               |   |             |
|-------------------------------|---|-------------|
| 3. The Chairman/Secretary     | } |             |
| Khed Taluka Education         | } |             |
| Society's English Medium      | } |             |
| School at Po. Rajgurunagar,   | } |             |
| Tal. Khed, Dist. Pune         | } |             |
|                               | } |             |
| 4. The Principal              | } |             |
| Khed Taluka Education         | } |             |
| Society's English Medium      | } |             |
| School at Po. Rajgurunagar,   | } |             |
| Tal. Khed, Dist. Pune         | } |             |
|                               | } |             |
| 5. The Executive Committee of | } |             |
| Parents and Teachers          | } |             |
| Association of Khed Taluka    | } |             |
| Education Society's English   | } |             |
| Medium School at Po.          | } |             |
| Rajgurunagar, Tal. Khed,      | } |             |
| Dist. Pune, through its       | } |             |
| Chairman/Secretary (Copy to   | } |             |
| be served on the Respondent   | } |             |
| No. 4's Address)              | } | Respondents |

Mr. Rahul S. Kadam with Mr. Yagnesh R. Rathod for the petitioners.

Mr. V. M. Mali-AGP for respondent nos. 1 and 2.

Mr. Nikhil R. Vidwans for respondent nos. 3 to 5.

**CORAM :- S. C. DHARMADHIKARI &  
SMT. BHARATI H. DANGRE, JJ.**

**DATE :- AUGUST 7, 2018**

**ORAL JUDGMENT :-** (Per S. C. Dharmadhikari, J.)

1. By this writ petition under Article 226 of the Constitution of India, the petitioner is seeking the following two reliefs:-

“(A) That this Hon'ble Court under its Writ Jurisdiction under Article 226 and 227 of the Constitution of India 1950 by issuing appropriate Writ, order, Direction be pleased to declare that, the provisions of sec. 6(5), (7) of the 'Said Act', 2011 are arbitrary, ultra-vires violating of Article 14 and 21 and 21(A) of the Constitution of India, 1950, so also is violating the spirit and object of the very “Said Act' and therefore, to that extent appropriate effect may be given in said act of deletion, amendment etc.

(B) That this Hon'ble Court under its Writ Jurisdiction under Article 226 and 227 of the constitution of India 1950 by issuing appropriate Writ, order, Direction be pleased to declare that, the provisions of sec. 6(5), (7) of the 'Said Act', 2011 to be read as, in the Sub. Sec. 5 of Sec. 6 of the aforesaid Act word '----. -- then Management may prefer an appeal \_\_\_\_\_' is required to be substituted as '---- then aggrieved parties even individual parent may prefer an appeal \_\_\_\_\_. So also in Sec. 6(7)

*The management or the executive committee, even individual parent aggrieved by the decision .....*”

2. Since we have extensively heard both sides and perused the petition and all the affidavits placed on record so also the legal provisions, we intend to dispose of this petition by this final judgment.

3. Hence, Rule. Respondents waive service. By consent, Rule is made returnable forthwith.

4. The few facts necessary to appreciate the arguments of the petitioners' counsel are that the first petitioner before us is a society registered under the provisions of the Societies Registration Act, 1860 by the parents of the students of respondent no. 3-Khed Taluka Education Society's English

Medium School at Rajgurunagar, Taluka-Khed, District-Pune. The fourth respondent to this petition is the Principal of the said school, whereas, the fifth respondent is the Executive Committee set up under the Maharashtra Educational Institutions (Regulation of Fee) Act, 2011 (hereinafter referred to as “the Maharashtra Act No. VII of 2014). The first respondent to the writ petition is the State, whereas, the second respondent is the Deputy Director of Education.

5. The first respondent has allowed the school to be set up by granting necessary permissions and approvals through the second respondent and to be functional at Rajgurunagar. It is stated that it is catering to the students in the rural areas. Respondent no. 3 is the Management who has set up this school, but the complaint is, for the academic year 2016-17, this third respondent-Management has increased the fees more than 15% and to the extent of 25% without following the provisions of the Maharashtra Act No. VII of 2014. The further complaint is that the petitioners approached the Education Officer and other statutory functionaries, complaining that these fees are exorbitant and that there are several irregularities and not only the statutory functionaries, but even the Parent-Teachers Association has neglected to take action against such an arbitrary

increase. The petitioners placed reliance upon an order passed on 12<sup>th</sup> May, 2016 by the Education Officer (Primary) of Pune Zilla Parishad. He has directed the Principal-respondent no. 4 not to increase the fees. However, the Education Officer recalled such an order by his subsequent order dated 22<sup>nd</sup> September, 2016, copy of which is at Exhibit 'G' to the petition. Therefore, the petitioners approached the appellate authority within the meaning of sub-section (5) of section 6 of the Maharashtra Act VII of 2014. The appeal was heard from time to time. By the impugned order, the said appeal has been dismissed on the ground of maintainability. The conclusion is that the appeal/Complaint No. 17 of 2017 presented by individual parents is not maintainable. The allegation is that on an earlier occasion, the objection to the maintainability was specifically rejected. Therefore, this appeal could not have been dismissed on the ground of maintainability.

6. Finding that sub-section (5) of section 6 has been relied upon so as to dismiss this appeal as not maintainable, that provision not enabling the parties like the petitioners to prefer an appeal or avail of the appellate remedy, that provision itself is unconstitutional. It is ultra-vires the provisions of the Maharashtra Act VII of 2014 and Article 14 of the Constitution of India.

7. Mr. Rahul Kadam learned counsel appearing for the petitioners would submit that an appeal could not have been provided and guaranteed only to the Management for it is a misconception that only it is the Management, which is the stakeholder in matters of primary education. The parents of the students, who have a constitutional right and obligation insofar primary education is concerned, have an important stake in the matter. If the remedy against a limited fee increase is provided only to the Management, leaving out such aggrieved parents, then, there is a patent discrimination and the State has failed to abide by the mandate of equality and equal protection of law. In these circumstances, this provision be declared as ultra-vires.

8. Affidavits have been filed and in the affidavits, a specific stand is taken that such a provisions cannot be said to be ultra-vires. An affidavit is filed by respondent nos. 3 to 5, namely, the Management. Interestingly, the only response from the State Government is that such a provision cannot be said to be unconstitutional or ultra-vires the Maharashtra Act No. VII of 2014, bearing in mind its scheme, object and purpose. Once this is the clear mandate flowing from the law, then, absence of a provision of appeal insofar as the parents are concerned does not make the law bad. Hence, the writ petition be dismissed.

9. There is an additional affidavit, which has been filed by the petitioners pointing out that during the pendency of this writ petition, one of the parents received an intimation that if the increased fees are not paid, the admission of his ward would be cancelled. Despite the challenge to the legal provisions and without prejudice to the petitioners' rights and contentions, it is claimed that these increased fees would be paid under protest.

10. The Management has filed an affidavit so as to controvert the submissions in the additional affidavit, pointing out that the parents have not been responding to several communications from the Management and the demand for payment of increased fees. The school fees for the academic years 2018-19 and 2019-20 have also been increased by following due process of law. It is in these circumstances that the Management was compelled to address a letter dated 21<sup>st</sup> July, 2018 and proposing to cancel the admissions of the concerned students. The Management derives no pleasure in issuing such communications, but it is the law, which enables it to do so.

11. In order to appreciate Mr. Kadam's contentions, we must refer to the law itself. The Maharashtra Act No. VII of 2014 is an act to provide for regulation of collection of fee by educational institutions in the State of Maharashtra and for matters

connected therewith and incidental thereto. The preamble to this law reads as under:-

“WHEREAS the National Policy on Education envisages that the commercialization of education and profiteering by the educational institutions should be curbed;

AND WHEREAS the State Government desires that steps should be taken to prevent the commercialization of education through profiteering by the educational institutions;

AND WHEREAS the practice of charging exorbitant fees by the educational institutions is on increase in the State;

AND WHEREAS with a view to effectively curb this undesirable practice and commercialization of education which result in frustration among meritorious and indigent students and to maintain excellence in the standard of education, it is expedient in the public interest to regulate collection of fee by the educational institutions in the State of Maharashtra and to provide for matters connected therewith and incidental thereto; it is hereby enacted in the Sixty-second year of the Republic of India as follows:- ....”

12. Chapter I contains the preliminary provisions. The title of the Act is the Maharashtra Educational Institutions (Regulation of Fee) Act, 2011. It has been brought into effect and from the date of publication in the Official Gazette, namely, 21<sup>st</sup> March, 2014.

13. Section 2 is the definition section and the following definitions are relevant for our purpose. We reproduce them for ready reference:-

“2(a) “academic year” means the year specified by the Government or, as the case may be, any Board or Council to which respective school is affiliated;

2(b) “aided school” means the school receiving any kind of recurring grant or assistance in monetary or non-monetary form, from the Government or the concerned authority for defraying its expenditure;

2(c) “appointed date” means the date appointed by the State Government under sub-section (3) of section 1;

2(d) “Divisional Fee Regulatory Committee” means the Divisional Fee Regulatory Committee constituted under section 7;

2(h) “Educational Division” means an Educational Division notified as such by the State Government, by notification in the Official Gazette;

2(i) “elementary education” means the education from first class to eighth class;

2(j) “Executive Committee” means the Executive Committee of the Parent-Teachers Association;

2(k) “fee” means the amount, fixed as a fee under section 5 and 6 and includes,-

- (i) Tuition fee;
- (ii) Term fee, which shall not exceed one month tuition fee per term;
- (iii) Library fee and deposit;
- (iv) Laboratory fee and deposit;
- (v) Gymkhana fee;
- (vi) Caution money;
- (vii) Examination fee;
- (viii) Hostel fee and Mess charges;
- (ix) Admission fee;

*Explanation.* - Where the student is admitted into the school having the facility to undertake education upto the tenth standard or any standard below it, the student shall not be required to pay the admission fee once again;

(x) deposit as security amount or amount payable for any curricular or co-curricular item as may be prescribed.

2(o) “management” means, -

(i) in the case of a school managed by the Government, the Government;

(ii) in the case of school managed by a local authority, the local authority;

(iii) in any other case, managing committee or the governing body, by whatever name called, of school to which the affairs of the school are entrusted and, where such affairs are entrusted to any person, by whatever name or designation called, includes such person;

2(p) “minority educational institution” means the Government approved institutions established and administered by minority having right to do so under clause (1) of article 30 of the Constitution of India;

2(q) “Parent-Teachers Association” means the Parent-Teachers Association constituted under section 4;

2(r) “pre-primary school” means a Nursery, Junior Kinder Garten, Senior Kinder Garten level or any school imparting education upto pre-primary school level for children having age 3 to 6 years, by whatever name called and of any medium attached in the prescribed manner to the school, but does not include a creche;

2(s) “prescribed” means prescribed by the rules made under this Act;

2(t) “private educational institution” means any private management including the management of the minority educational institution running the school or Diploma in Teachers Education College;

2(u) “profiteering” means any amount accepted in cash or kind, directly or indirectly which is in excess of the fee fixed or approved as per the provisions of this Act;

2(v) “Revision Committee” means the Revision Committee constituted under section 11;

2(w) “rules” means the rules made under this Act;

2(x) “school” means a pre-primary school, primary school, school imparting elementary education, secondary school, higher secondary school or junior college recognised by the Government and managed by any management and affiliated to any Indian or foreign course or Board, whether aided, partially aided, un-aided or permanently un-aided, including the school run by the minority educational institution but does not include a school imparting religious instructions only.”

14. By Chapter II, there is a prohibition of collection of excess of fee fixed or approved. The title itself is indicative of the fact that once there is a fee determination, there is prohibition in collection of excess thereof. Thus, a fee in excess of the fee fixed or approved under this law cannot be recovered and that is the mandate flowing from section 3. Section 4 refers to Parent-Teachers Association. Every private school shall constitute the Parent-Teachers Association. Its formation, its composition and its term is then set out and this is for every academic year. There is an obligation of this association to have a general meeting at least once before the 15<sup>th</sup> August of every year. The procedure to be followed for conducting the meeting shall be such as may be prescribed. This association shall discharge such duties and perform such functions as may be assigned to it under this Act and as may be prescribed. Pertinently, the definition of the term “Executive Committee” is relevant. Section 2(j) says, “Executive Committee” means the Executive Committee of the Parent Teachers Association. Thus, the Parent Teachers Association has

to be formed, after which, there will be an Executive Committee within the meaning of section 4(2)(a). This Executive Committee of the Parent-Teachers Association has the Principal or Headmaster of the school as its Chairman. The Vice Chairman would be one from amongst the parents. The Secretary would be one from amongst the teachers and the two Joint Secretaries both from amongst parents. One parent and one teacher from every standard shall be a member of the Executive Committee. Duties and functions, which have to be discharged and performed are then to be found in the later provisions. Section 5 says that the Government is competent to regulate the fees in the Government schools and aided schools. The fee shall be fixed in the manner as may be determined by the Government. This category of schools is not the one before us. The school before us is a private un-aided school. Its Management and Managements of permanently un-aided schools are competent to propose the fees in such schools. Section 6 reads as under:-

6. (1) The management of the private un-aided schools and permanently un-aided schools shall be competent to propose the fees in such schools.

(2) On the formation of the Executive Committee, the management of the school shall submit the details of the proposed fee along with the relevant record to the Executive Committee for its approval at least six months before the commencement of the next academic year. While giving the approval, the Executive Committee shall have the authority to decide the amount of fee afresh.

(3) After considering all the relevant factors laid down under section 9, the Executive Committee shall approve the fees within a period of thirty days from the date of receipt of the details of the proposed fee and the record under sub-section (2) and communicate the details of the fee so approved in writing to the management forthwith. The details of the fee so approved by the Executive Committee shall be displayed on the notice board in Marathi, English and in the respective medium of school, and if such school has its own website, it shall be displayed on the same, and it shall be binding for two academic years.

(4) If the Executive Committee fails to decide the fees within the period specified in sub-section (3), the management shall immediately refer the matter to the Divisional Fee Regulatory Committee for its decision under intimation to the Executive committee in such manner as may be prescribed. During the pendency of the reference, the management of school shall be at liberty to collect the fee of the previous academic year plus fifteen per cent. increase in such fee till the final decision of the Divisional Fee Regulatory Committee.

(5) If the difference between the fees decided by the management and the fees approved by the Executive Committee is not more than fifteen per cent., then, the fees communicated by the Executive Committee under sub-section (3) shall be binding on the management and if the difference is more than fifteen per cent., then management may prefer an appeal to the Divisional Fee Regulatory Committee, within a period of thirty days from the date of such communication under sub-section (3) in such manner as may be prescribed:

Provided that, the Divisional Fee Regulatory Committee may entertain such appeal or reference after the expiry of the period of thirty days, if it is satisfied that there are sufficient reasons for not preferring an appeal or reference within time.

(6) (a) The Divisional Fee Regulatory Committee shall decide the appeal or reference as far as possible within the period of ninety days from the date of its filing after giving the opposite party an opportunity of being heard.

(b) While deciding the appeal or reference, the Divisional Fee Regulatory Committee shall not grant any stay to the fee proposed by the management or, as the case may be, the fee approved by the Executive Committee.

(c) On decision in appeal or reference, the Divisional Fee Regulatory Committee may pass appropriate orders for refund of the excess fee to the student concerned. In case the management fails to refund the excess fee to such student, the Divisional Fee Regulatory Committee shall proceed to recover such excess fee from the management as arrears of land revenue and pay the same to such student.

(d) The decision of the Divisional Fee Regulatory Committee in appeal or reference shall be displayed on the notice board of the concerned school, and if such school has its own website, it shall be displayed on the same by the management.

(7) The management or the Executive Committee aggrieved by the decision of the Divisional Fee Regulatory Committee in appeal or reference may, within thirty days from the date of such decision, prefer an appeal before the Revision Committee in such manner as may be prescribed.”

15. One must, therefore, appreciate the placing of section 6 and the sub-sections thereof. A combined reading of all these sub-sections together with the other provisions of the Act and harmoniously would reveal that the Government has a power to regulate the fee insofar as the Government schools and aided colleges and equally fix them in the manner determined by the Government. As far as managements of private un-aided and permanently un-aided schools are concerned, their Managements are competent to propose the fee. The proposals of the Managements are then placed before the Executive Committee when it is formed. The Executive Committee can summon the requisite records and it can decide the amount of fees afresh. That is, therefore, the primary duty and function to be discharged and performed by the Executive Committee on its formation. Sub-

section (2) of section 6 is a pointer towards this obligation of the Executive Committee. How the Executive Committee should proceed is then to be found in sub-section (3), which says that after considering all the relevant factors laid down under section 9, the Executive Committee shall approve the fees within a period of thirty days from the date of receipt of the details of the proposed fee and the record under sub-section (2) and communicate the details of the fee so approved in writing to the management, forthwith. The details of the fee approved by the Executive Committee are required to be displayed on the notice board in Marathi, English and in the respective medium of school and if such school has its website, it shall be displayed on the same. These fees are binding for two academic years. Sub-section (4) says that in the event the Executive Committee fails to decide the fees within the period specified in sub-section (3), the Management shall immediately refer the matter to the Divisional Fee Regulatory Committee (DFRC) for its decision under intimation to the Executive Committee in such manner as may be prescribed. Then, during the pendency of the reference, the Management of school shall be at liberty to collect the fee of the previous academic year plus fifteen per cent (15%) increase in such fee till the final decision of the Divisional Fee Regulatory Committee. Sub-section (5) of section 6 provides for remedy of

appeal and advisedly, that is provided and assured only to the Management. The reason for it is obvious. The fees have to be approved by the Executive Committee. If the difference between the fees decided by the Management and the fees approved by the Executive Committee is not more than fifteen per cent., then, the fees communicated by the Executive Committee under sub-section (3) shall be binding on the Management and if the difference is more than fifteen per cent., then, Management may prefer an appeal to the DFRC, within a period of thirty days from the date of such communication under sub-section (3) in such manner as may be prescribed. There is a power to condone the delay in presenting this appeal and it as also the Reference can be entertained, if the DFRC is satisfied that there are sufficient reasons for not preferring the appeal within time. The powers of the DFRC are then set out in sub-section (6). By sub-section (7), which is clearly missed while canvassing the plea or argument of unconstitutionality, both, the Management or the Executive Committee, if aggrieved by the decision of the DFRC in appeal or reference, may, within thirty days from the date of such decision, prefer an appeal before the Revision Committee in such manner as may be prescribed.

16. To appreciate this aspect of the matter, we reproduce sections 7, 9 and 10, which read as under:-

“7. (1) The Government shall, by notification in the Official Gazette, constitute a Divisional Fee Regulatory Committee for each Educational Division.

(2) The Divisional Fee Regulatory Committee shall consist of the following members, namely:-

- |                                                                                                                                                                                                                                                                                                             |                                   |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|
| (a) A retired District Judge,<br>nominated by the Government in consultation with the High Court                                                                                                                                                                                                            | Chairperson                       |
| (b) Divisional Chairman of the<br>Maharashtra State Board of<br>Secondary and Higher<br>Secondary Education                                                                                                                                                                                                 | Member                            |
| (c) A Chartered Accountant or Cost<br>and Works Accountant                                                                                                                                                                                                                                                  | Member                            |
| (d) Retired Head of Central Board of<br>School Education or Indian<br>Certificate of Secondary<br>Education or any other Board<br>not connected directly or<br>indirectly with any educational<br>institution, or retired officer not<br>below the rank of Joint Director<br>of Education of the Government | Member                            |
| (e) Regional Deputy Director of<br>Education                                                                                                                                                                                                                                                                | Ex officio<br>Member<br>Secretary |

(3) Every appointment of a member under clauses (c) and (d) of sub-section (2) shall be made by the State Government on the recommendation of the Selection Committee.

(4) The State Government shall constitute a Selection Committee for the Divisional Fee Regulatory Committee consisting of the following, namely:-

- |                                                                    |             |
|--------------------------------------------------------------------|-------------|
| (a) Chairperson of the Revision<br>Committee                       | Chairperson |
| (b) The Secretary in charge of the<br>Law and Judiciary Department | Member      |
| (c) The Secretary in charge of the<br>School Education Department  | Member      |

Provided that, where the Chairperson of the Revision Committee is, by reason of absence or otherwise, unable to act as a Chairperson of the Selection Committee, the Chairperson acting as such under the proviso to sub-section (2) of section 11 shall act as a Chairperson.

9. (1) The following factors shall be considered while deciding the fee leviable by a school, namely:-

- (a) the location of the school;
- (b) the infrastructure made available to the students for the qualitative education, the facilities provided and as mentioned in the prospectus or web-site of the school;
- (c) the educational standard of the school as the State Government or the competent authority may prescribe;
- (d) the expenditure on administration and maintenance;
- (e) the excess fund generated from non-resident Indians, as a part of charity by the management and contribution by the Government for providing free-ship in fee or for other items under various Government schemes given to the school for the Scheduled Castes, the Scheduled Tribes and *Vimukta Jatis* and Nomadic Tribes students;
- (f) qualified teaching and non-teaching staff as per the norms and their salary components;
- (g) reasonable amount for yearly salary increments;
- (h) expenditure incurred on the students over total income of the school and the reasonable surplus for qualitative development of the students;
- (i) any other factor as may be prescribed.

(2) The Divisional Fee Regulatory Committee shall indicate the different heads under which the fee shall be levied.

(3) Every private school preferring an appeal before the Divisional Fee Regulatory Committee shall place the copy of decision in appeal on its notice board, and if such school has web-site, on its web-site.

10. (1) The powers and functions of the Divisional Fee Regulatory Committee shall be to adjudicate the dispute between the school management and the Parent-Teachers Association regarding fee to be charged by the school management from the students.

(2) The Divisional Fee Regulatory Committee may authorise any officer not below the rank of the Education Officer or the Education Inspector to enter any educational institute or any premises belonging to the management of such school, if the Divisional Fee Regulatory Committee finds so necessary and search, inspect and seize any records, accounts, registers or other documents belonging to such school or the management in so far as such records, accounts, registers or other documents are necessary and relevant to decide the issues before the said Committee. The provisions of the Code of Criminal Procedure, 1973 relating to search and seizures shall apply, so far as may be, to searches and seizures under this section.

(3) The Divisional Fee Regulatory Committee shall regulate its own procedure, for the discharge of its functions, and shall, for the purpose of making any inquiry under this Act, have all powers of a civil court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, namely:-

- (i) the summoning and enforcing the attendance of any witness and examining him on oath;
- (ii) the discovery and production of any document;
- (iii) the reception of evidence on affidavits;
- (iv) the issue of commission for the examination of the witness.

(4) No judicial order shall be passed by the Divisional Fee Regulatory Committee in the absence of the Chairperson. The order of the Divisional Fee Regulatory Committee shall be

binding on the parties to the proceedings before it for two academic years. It shall not be called in question in any civil court except by way of an appeal before the Revision Committee constituted under this Act.

(5) At the time of resolving the dispute, the Divisional Fee Regulatory Committee shall not grant any interim stay to the fee determined by the school management. On decision in appeal or reference, the Divisional Fee Regulatory Committee may pass appropriate orders for refund of the excess fee to the student concerned. In case the management fails to refund the excess fee to such student, the Divisional Fee Regulatory Committee shall proceed to recover such excess fee from the management as an arrears of land revenue and pay the same to such student.

(6) The Divisional Fee Regulatory Committee shall on determining the fee leviable by a private school, communicate its decision to the parties concerned.

(7) The Divisional Fee Regulatory Committee shall indicate the different heads under which the fee shall be levied.

(8) The orders passed by the Divisional Fee Regulatory Committee shall be binding on the private school for two academic years. At the end of the said period, the private school shall be at liberty to propose changes in its fee structure by following the procedure as laid down under this Act.”

17. These provisions would indicate as to how the DFRC comprises of a retired District Judge nominated in consultation with the High Court as a Chairperson and others as members. Whereas, the Revision Committee consists of a Chairperson, the Secretary in-charge of the Law and Judiciary Department and the Secretary in-charge of the School Education Department. The constitution of Revision Committee is to be found in section 11, which reads as under:-

“11. (1) The State Government shall constitute a Revision Committee in the State, by notification in the Official Gazette, which shall consist of the following members, namely:-

- |                                                                                                                                                                                                                                   |                                   |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|
| (a) A retired High Court Judge<br>nominated by the Government in<br>consultation with the High Court                                                                                                                              | Chairperson                       |
| (b) Any retired person holding the<br>post of Director of Education or<br>equivalent post or retired Head<br>of the Central Board of School<br>Education or Indian Certificate of<br>Secondary Education or other<br>such Boards. | Member                            |
| (c) A Chartered Accountant or Cost<br>and Works Accountant                                                                                                                                                                        | Member                            |
| (d) Joint Director of Education<br>(Secondary and Higher<br>Secondary), Directorate of<br>Education, Maharashtra State,<br>Pune                                                                                                   | Ex officio<br>Member<br>Secretary |

(2) Every appointment of member under clauses (b) and (c) of sub-section (1) shall be made by the State Government on the recommendation of a Selection Committee consisting of the following, namely:-

- |                                                                    |             |
|--------------------------------------------------------------------|-------------|
| (a) Chairperson of the Revision<br>Committee                       | Chairperson |
| (b) The Secretary in charge of the<br>Law and Judiciary Department | Member      |
| (c) The Secretary in charge of the<br>School Education Department  | Member      |

Provided that, where the Chairperson of the Revision Committee is, by reason of absence or otherwise, unable to act as Chairperson of the Revision Committee, the State Government may refer the matter to the High Court for nominating a retired High Court Judge to act as a Chairperson.”

18. By section 12, certain provisions of the DFRC, as found in the Act, are made applicable to the Revision Committee and the Revision Committee's decision is given a finality. The Revision

Committee is headed by a retired High Court Judge nominated by the Government in consultation with the High Court as a Chairperson and the members, as are set out in clauses (b) to (d) of sub-section (1) of section 11.

19. If the Executive Committee and its status under the law is understood carefully, it is evident that it is a representative body and not headed by the Management, but it is by the school Principal or Headmaster. The parents have been given a representation together with teachers. It is such an Executive Committee for a term of one academic year, and to be formed after the Parent-Teachers Association is established, that has an obligation and duty to consider the fees proposed by the Management for that academic year or the academic years as is the mandate of law. The proposals of the Management are placed before such a representative body, which has to then decide whether to approve these fees or not. Its powers are fairly wide. It has never been intended by the law framers to confer only a cosmetic or formal and not real power in the Executive Committee. The power of approval is not a formality. It is a power coupled with duty. As the father of the Nation, M.K. Gandhi, says that true source of right is duty. Earlier the parents and teachers were complaining about their non-involvement in

determination of fees. That was a one-sided exercise of power without any corresponding obligation. It was alleged that the State is giving a free hand to the Management to fix fees resulting in exploitation of students by charging huge and exorbitant fees without applying the relevant and germane factors or certain universal standards. Now, that defect and deficiency in the law is removed. The representative body has been endowed with a duty to approve the fees proposed by the Management. The word “approved” has a definite legal connotation. In the Law Lexicon by P. Ramanatha Aiyar, 3<sup>rd</sup> Edition Reprint 2007, the word is defined as under:-

“**Approval**’ and ‘**permission**’. Ordinarily the difference between approval and permission is, that in the first the act holds goods until disapproved, while in the other case it does not become effective until permission is obtained. But permission subsequently obtained may all the same validate the previous act. *Shakir Husain v. Chandoo Lal*, AIR 1931 All 567 (FB).

APPROVAL OF A PERSON, means that, and only that, which he has, with full knowledge, approved (*Devis v. Leicester*, 1892 2 Ch 208)

Ordinarily, the difference between approval and permission is, that in the first case the action holds good until it is disapproved while in the other case it does not become effective until permission is obtained. *U.P. Avas Evam Vikas Parishad v. Friends Co-operative Housing Society Ltd.*, AIR 1996 SC 114, 115 [UP Urban Planning and Development Act (2 of 1973), 59(1)(A)].

**Approve.** To accept as good or sufficient for the purpose intended. *Burrill: Anderson Law Dic*) To pronounce good; admit the propriety or excellence of; be pleased with, commend; as on trial the goods were approved; to approve the policy of administration; to turn to one's own profit; augment

the value of profits of, as of waste land, by inclosing and cultivating; improve.

To give formal sanction to; to confirm authoritatively.

“As long as the thirteenth century the statute of Merton had authorised the Lords of manors to *approve*, that is, inclose for their own profit, as much of the waste land as would leave enough uninclosed for the use of the commoners.” (F. POLLOCK, Land Laws, 173).

To accept as good or sufficient for the purpose of intended; to confirm authoritatively.

'Approve' means to have or express a favourable opinion of, to accept as satisfactory *State Govt. of NCT of Delhi v. R.C. Anand*. (2004) 4 SCC 615; 630, para 11 : AIR 2004 SC 3693, para 12.”

20. Now, the parents cannot complain that the law is in any way faulty or falls short of their expectations. The duty of parents / teachers to act is crystal clear and their failure or inaction or not applying the law correctly gives a cause to the Managements to complain. Hence, they alone are conferred with a right of Appeal to DFRC. Those failing to abide by and obey the law are complaining and we are, therefore, surprised by the challenge raised in this petition.

21. The Sub-section (2) of section 6 says that on the formation of the Executive Committee, the Management of the school shall submit the details of the proposed fee along with the relevant record to the Executive Committee for its approval at least six months before the commencement of the next academic year. While giving the approval, the Executive Committee shall have

the authority to decide the amount of fee afresh. The Executive Committee should apply the factors as are to be borne in mind for determining the fees and stipulated by section 9. Thereafter, it has to approve the fees. If it fails to decide in terms of its obligation and duty so also statutory function, then, the Management can refer the matter to the DFRC for its decision under intimation to the Executive Committee. The Management does not have an absolute right to charge fees as proposed by it, but this power is conditioned by a liberty under sub-section (4) of section 6 to collect the fees of the previous academic year plus fifteen per cent increase in such fees till the final decision of the DFRC. Two things are, therefore, apparent. One is that if the Executive Committee fails to decide the fees within the period stipulated by law, then, it cannot complain for it has all the powers to decide the amount of fees afresh, but it failed to do so. If it fails to perform its statutory duty, then, it can hardly complain. If the Executive Committee comprising of teachers, parents and headed by the Principal is not in agreement with the Management's proposals, it could have decided the fees afresh. If it fails to decide, it must take the consequences. In the event it decides, then, the Management is bound to charge only that fee. It is clear by sub-section (5) that the fees communicated by the Executive Committee under sub-section (3) of section 6 shall be

binding on the Management and if the difference is more than fifteen per cent. of the fees communicated by the Executive Committee, then, the Management may prefer an appeal to the DFRC. That is because it is the Management, who is aggrieved by the action of the Executive Committee. Advisedly, therefore, the remedy of appeal is available to it as it is the aggrieved party. For defending the fee as communicated by the Executive Committee, it does not have to prefer any appeal. It is for the DFRC then to determine as to whether the Executive Committee has carried out its duty in accordance with law or not. In either which way, it being an appellate authority, it would definitely have before it the entire record and the decision of the Executive Committee. The Executive Committee's presence is not necessary to defend its own decision. There is nothing by which the Executive Committee is aggrieved and it could not have preferred an appeal.

22. Mr. Kadam's argument pre-supposes that independent of the composition and function of the Executive Committee, the law envisages a power of appeal to be conferred in the parents. That is a complete misconception, misreading and misinterpretation of the Act. Parents definitely have a stake, but they are given that legal status, respect and regard by placing them in the Executive Committee itself. There is a Parent-Teachers Association and that

together is the Executive Committee. The Act is in that sense progressive for it entrusts the Executive Committee with important functions and directs them to be performed coupled with the duties to be discharged, which ordinarily could not have been discharged by these stake holders. In several such laws, the stake holders and the real ones, namely, students and parents were excluded and kept out. In the subject law, they are not excluded. Once they are included, they are entrusted with the duty and obligation as well. That is why they cannot complain if the Management prefers an appeal.

23. The sheet anchor of Mr. Kadam's arguments is an observation in the judgment of this court, copy of which has been annexed to this petition. In the Division Bench judgment in the case of *Euro School Education Trust vs. Divisional Fee Regulatory Committee*<sup>1</sup>, the question was somewhat distinct. The core issue was whether individual parents have locus to approach the DFRC under the provisions of this Act. The entire provisions have been scanned and thereafter, this court speaking through B.R. Gavai, J., came to the following conclusion:-

“22. It could thus be seen that, the said Act is complete code in itself. It provides as to in what manner the fees will be first determined by the management and thereafter approved by the Executive Committee, which has to be constituted as per provisions of the Act, what would be the effect of the

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<sup>1</sup> 2017(6) Mh. L. J. 343

difference in fees as approved by the management and approved by the Executive Committee. It provides a remedy to the management to approach DFRC in case the Executive Committee fails to decide the matter within the period prescribed in sub-section (3) of Section 6. Sub-Section (5) mandates the management to accept the approval by the Executive Committee, if the difference between the proposal of the management and decision of the Executive Committee is not more than 15%. Only if the difference is more than 15%, the management is entitled to prefer an appeal to the DFRC. A further appeal is provided under sub-section (7) of Section 6 either to the management or to the Executive Committee to approach the Revision Committee, if either the management or the Executive Committee are aggrieved with the decision taken by the Divisional Committee.

23. We may gainfully refer to the observations of the Privy Council in the celebrated case of [Nazir Ahmad V. King Emperor](#). The aforesaid principle laid down by Privy Council has been consistently followed by the Hon'ble Supreme Court and various High Courts. Very recently, the Apex Court in the case of Central Coalfields Ltd. & Anr. Vs. SLL SML (Joint Venture Consortium) & Ors. has observed thus:-

52. There is a wholesome principle that the Courts have been following for a very long time and which was articulated in [Nazir Ahmad v. King Emperor](#) namely "where a power is given to do a certain thing in a certain way the thing must be done in that way or not at all. Other methods of performance are necessarily forbidden". There is no valid reason to give up this salutary principle or not to apply it mutatis mutandis to bid documents. This principle deserves to be applied in contractual disputes, particularly in commercial contracts or bids leading up to commercial contracts, where there is stiff competition. It must follow from the application of the principle laid down in Nazir Ahmed that if the employer prescribes a particular format of the bank guarantee to be furnished, then a bidder ought to submit the bank guarantee in that particular format only and not in any other format. However, as mentioned above, there is no inflexibility in this regard and an employer could deviate from the terms of the bid document but only within the parameters mentioned above.

53. Nazir Ahmed has been followed in dozens of decisions rendered by this Court and by other constitutional Courts in the country. The Central

Vigilance Commission has accepted this principle in a modified form as a guiding principle in its circular dated 31st December, 2007 wherein it is mentioned that all organizations ought to evolve a procedure for acceptance of bank guarantee that is compatible with the guidelines of banks and the Reserve Bank of India. One such requirement is that the bank guarantee should be in a proper prescribed format and should be verified verbatim on receipt with the original. Adherence to this principle of verbatim verification would not only avoid undue problems for the employer but would also virtually eliminate subjectivity on the part of the employer.

24. It could thus be seen that it is more than well settled principle of law that when a statute requires a particular thing to be done in a particular manner, it is to be done in that manner alone or not at all. Undisputedly, DFRC is a creation of the said Act and at the most can be construed to be a statutory tribunal constituted under the said enactment. It will be relevant to mention the observations of the Their Lordships of the Apex Court in the case of Vatticherukuru Village Panchayat Vs. Nori Venkatarama Deekshithulu & Ors. which read thus:-

23. The jurisdiction of a Tribunal created under statute may depend upon the fulfilment of some condition precedent or upon existence of some particular fact. Such a fact is collateral to the actual matter which the Tribunal has to try and the determination whether it existed or not is logically temporary prior to the determination of the actual question which the Tribunal has to consider. At the inception of an enquiry by a Tribunal of limited jurisdiction, when a challenge is made to its jurisdiction, the Tribunal has to consider as the collateral fact whether it would act or not and for that purpose to arrive at some decision as to whether it has jurisdiction or not. There may be Tribunal which by virtue of the law constituting it has the power to determine finally, even the preliminary facts on which the further exercise of its jurisdiction depends; but subject to that, the Tribunal cannot by a wrong decision with regard to collateral fact, give itself a jurisdiction which it would not otherwise have except such tribunals of limited jurisdiction when the statute not only empowers to enquire into jurisdictional facts but also the rights and controversy finally it is entitled to enter on the enquiry and reach a decision rightly or wrongly. If it has jurisdiction to do right, it has

jurisdiction to do wrong. It may be irregular or illegal which could be corrected in appeal or revision subject to that the order would become final. The questions to be asked, therefore, are whether the tribunal has jurisdiction under Inam Act to decide for itself finally; whether the institution or the inamdar or the tenant is entitled to ryotwari patta under Section 3, 4 and 7 and whether the tribunal is of a limited jurisdiction and its decision on the issue of patta is a collateral fact.

25. It could thus be clearly seen that at the inception of an inquiry, the tribunal of limited jurisdiction is required to decide the issue as to whether it has jurisdiction to decide the matter which is brought before it or not. It is more than settled that a tribunal of a limited jurisdiction will have a jurisdiction to entertain a proceeding only if the statute under which it is created enables the party to approach it and to decide only the issues which the statute empowers it to decide. The scheme of the enactment which we have discussed herein above would clearly reveal that the DFRC can be approached only by the management and that to only in the event when the difference between the proposal submitted by it and the one approved by the Executive Committee is more than 15%. Conversely if the difference between the fees proposed by the management and approved by Executive Committee is less than 15%, in that event the management also will have no right to approach the DFRC. It could, also, be seen that under Section 6, it is only the management, who has a right to file a first appeal before the Divisional Committee in case the management is aggrieved by the decision of DFRC. It is only the second appeal as provided under sub-section 7 of Section 6, wherein right is given to file appeal by the Management as well as Executive Committee before Revision Committee, if either of them is aggrieved by decision of Divisional Committee. It could thus be seen that the perusal of the scheme would reveal that the statute does not provide for initiation of proceedings before DFRC, at the behest of individual parents.

26. No doubt that, the learned counsel for Respondents are contending that in view of powers under Section 10, all questions between the school management and PTA regarding the fee are to be determined by the DFRC. The learned counsel urged us to accept the said interpretation by placing reliance on preamble of the Act. No doubt that, sub Section 1 of Section 10 provide that powers and functions of DFRC shall be to adjudicate the dispute between the school management and the PTA regarding fee to be charged by the school management from the students. However, a particular

sections of statute cannot be read in isolation. While considering the provisions of law, the Court will have to take into consideration various provisions of the statute and apply the principle of harmonious construction.

27. The other principal that we are required to take into consideration is the first principal of interpretation. That is of plain and literal construction. Only when the effect cannot be given to the legislative intent, a recourse to the other principals of statutory interpretation would be permissible. It is more than well settled that a right to appeal is a creature of a statute. There cannot be an inherent right to an appeal, until the statute specifically provides for the same. If the legislature in its wisdom has not provided for right to appeal by individual parents before DFRC, if we arrive at the interpretation urged by Respondent Parents by resorting to the pragmatic principle of interpretation, we are of the view that we will be totally encroaching upon the legislative functions of the legislature. The learned counsel for the Respondents may be justified in contending that the legislative enactment which provides a right to appeal only to the management and not to the parents is discriminatory and in violation of Article 14. However, such a challenge cannot be entertained by us in a Petition filed by a management. If the Respondents - Parents are of the view that such enactment is unconstitutional, it is always permissible for them to raise an appropriate challenge in that regard. However, while entertaining the Petition of the Petitioners raising basic issue as to the tenability of the appeal at the instance of individual parents, it will not be permissible for us to consider challenge of the Respondents. We are therefore, of the considered view that the Respondent No.1 has erred in entertaining the grievance on behalf of the individual parents.”

24. Merely because the Division Bench observes that the right of appeal only to the Management is guaranteed and not to the parents and such provision may be discriminatory and in violation of Article 14, but it refrains from entertaining that challenge in the petition of the Management, does not mean that parents have the freedom or liberty to raise this issue substantively. However, the above observations do not mean that

the Division Bench expressed any firm or definite opinion. There is no such mandate flowing from the law nor can that observation be read torn from the context, much less a finding in this judgment. We are mindful of the above observations and therefore, we have allowed Mr. Kadam to raise the challenge. However, Mr. Kadam's argument overlooks the scheme of the law, its object and purpose. That is not defeated at all for what we find is that sub-section (7) of section 6 gives a right of appeal to the Management or to the Executive Committee, which is a representative body of parents and teachers to the Revision Committee. Thus, the aggrieved parents, who are part and parcel of the Executive Committee can definitely appeal, in the event the Management's proposed fees are upheld by the DFRC. That decision of the DFRC can be challenged before the Revision Committee. The further provisions of the law need not be referred in great details, but suffice it to note that once it is taking away the powers of a civil court, it is not rendered unconstitutional merely because a remedy of appeal is not provided to individual parents.

25. The Hon'ble Supreme Court, way back in a decision in the case of *M/s. Babubhai & Co. and Ors. vs. State of Gujarat*<sup>2</sup> held that absence of a corrective machinery like appeal or revision

**2 AIR 1985 SC 613**

available to a party, who claims to be aggrieved, would not render the law itself unconstitutional or bad. The relevant conclusions in the judgment guide us throughout and they read as under:-

“5. Counsel for the appellants fairly conceded the validity of the High Court's view on the first ground of challenge to S.54. It was only in regard to the second ground of challenge that he pressed one more aspect before us on the basis of which he contended that S. 54 read with Rule 27 may have to be struck down. He urged that even proceeding on the basis that S.54 impliedly required a hearing to be given and consequently such a requirement could be read into Rule 27 which was a subordinate piece of legislation, there was no corrective machinery provided for by way of an appeal or revision to any superior authority against an adverse order that may be passed by the local authority acting under Rule 27 and in the absence of any such corrective machinery the entire provision must be held to be bad in law and therefore the impugned notices served on the appellants should be quashed. In support of this contention counsel relied upon three or four decisions in C.R.H. Ready money Ltd. Case reported in AIR 1956 Bom. 304, Chandrakant Krishnarao's case reported in AIR 1962 SC 204, Lala Hari Chand Sarda's case reported in AIR 1967 SC 829 and Excel Wear's case reported in AIR 1979 SC 25 where a view has been taken that in the absence of a provision for corrective machinery by way of appeal or revision, the provision conferring a power to decide or do a particular thing may have to be regarded as unreasonable and or un-guided, un-controlled and arbitrary and hence violative of Article 14 of the Constitution. It is not possible to accept the contention.

6. It cannot be disputed that the absence of a provision for a corrective machinery by way of appeal or revision to a superior authority to rectify an adverse order passed by an authority or body on whom the power is conferred may indicate that the power so conferred is unreasonable or arbitrary but it is obvious that providing such corrective machinery is only one of the several ways in which the power could be checked or controlled and its absence will be one of the factors to be considered along with several others before coming to the conclusion that the power so conferred is unreasonable or arbitrary; in other words mere absence of a corrective machinery by way of appeal or revision by itself would not make the power unreasonable or arbitrary, much less would render the provision invalid. Regard will have to

be had to several factors, such as, on whom the power is conferred-whether on a high official or a petty officer, what is the nature of the power-whether the exercise thereof depends upon the subjective satisfaction of the authority or body on whom it is conferred or is it to be exercised objectively by reference to some existing facts or tests, whether or not it is a quasi-judicial power requiring that authority or body to observe principles of natural justice and make a speaking order etc; the last mentioned factor particularly ensures application of mind on the part of the authority or body only to pertinent or germane material on the record excluding the extraneous and irrelevant and also subjects the order of the authority or body to a judicial review under the writ jurisdiction of the Court on grounds of perversity, extraneous influence, malafides and other blatant infirmities. Moreover all these factors will have to be considered in the light of the scheme of the enactment and the purpose intended to be achieved by the concerned provision. If on an examination of the scheme of the enactment as also the purpose of the concerned provision it is found that the power to decide or do a particular thing is conferred on a very minor or petty officer, that the exercise thereof by him depends on his subjective satisfaction, that he is expected to exercise the power administratively without any obligation to make a speaking order then, of course, the absence of a corrective machinery will render the provision conferring such absolute and unfettered power invalid. But it is the cumulative effect of all these factors that will render the provision unreasonable or arbitrary and liable to be struck down. In three of the decisions referred to by counsel where the concerned provision was struck down the cumulative effect of several factors that were present in each was taken into consideration by the Court, while in C.R.H. Readymoney's case the provision was held to be valid.

7. In this behalf we might usefully refer to a decision of this Court in *Organo Chemical Industries v. Union of India* AIR 1979 SC 1803. In this case S. 14B of the Employees Provident Fund and Miscellaneous Provisions Act 1952 which conferred power upon the Central Provident Fund Commissioner to levy and recover punitive damages from a defaulting employer was challenged on the ground that within the limit of 100% of the defaulted amount it conferred naked and unguided power on the Commissioner to impose any quantum of damages as he fancied that no reasons were required to be given by him for such imposition and that no appellate or revisional review was prescribed against any adverse order that may be made by him and as such the section was violative of Art. 14 of the Constitution. Negating the contention this Court took the

view that the power under the section had been conferred upon one of the highest officials of the Government, that the power to impose damages on a party after hearing him was a quasi-judicial one that observance of requirements of natural justice was implicit in such jurisdiction that one desideratum thereof was spelling out of the reasons for the order to be made, that giving of reasons ensured rational action on the part of the Officer because reasons implied relevant reasons necessitating the application of mind on the part of the Officer only to pertinent and germane material on record and that once reasons were set out the order readily exposed itself to the writ jurisdiction of the Court so that perversity, illiteracy, extraneous influence, malafides and other blatant infirmities got caught and corrected. Under such circumstances this Court held that the needs of the factual situation and the legal milieu were such that the absence of appellate review in no way militated against the justice and reasonableness of the provision and that the argument of arbitrariness on this score was untenable.”

26. In this backdrop, Mr. Kadam's reliance on a Division Bench judgment of the Punjab and Haryana High Court is misplaced. There, in the case of *Paramjit Kumar Saroya vs. The Union of India and Ors.*<sup>3</sup>, legality and validity of certain provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 was the issue. The argument was that sub-section (1) of section 16 is unconstitutional for it does not provide for an appeal to the affected party. That is a senior citizen or a parent. The appeal was a remedy, which was entirely one sided and it was the person, who maintains the parents or senior citizens, alone conferred with a right of appeal. The right of appeal cannot be claimed as an inherent right. It is the creature of the statute. It is only when that right guaranteed by the statute otherwise is

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<sup>3</sup> AIR 2014 Punjab and Haryana 21

defeated by a literal construction leading to absurdity that the provision may be held to be suffering from the vice of unconstitutionality. To save it from such a vice or anomaly and not to make its interpretation absurd that the Division Bench, in that case, construed the provision by applying the principles of purposive interpretation. Before us is not a provision akin to the law discussed in this judgment. The principles emerging from the judgment of the Hon'ble Supreme Court referred by the Punjab and Haryana High Court, therefore, cannot be applied by us. This judgment is, therefore, clearly distinguishable.

27. We do not find that the law is one sided or that there is a frustration of its object and purpose totally if the parents do not have a right of appeal as guaranteed to the Management. The Management has an obligation to charge the approved fees. If the fees as proposed by it are not totally approved and there is hike of fifteen per cent, then, really, nobody is aggrieved. However, if the difference exceeds fifteen per cent., then, the Management is aggrieved because it has to run the show and if it can justify the increase, it will get the assistance of the DFRC. Even if there is an interference by the DFRC and the fees are allowed to be increased as proposed by the Management, it is not as if the DFRC's decision is final and binding. Then, the Executive Committee can approach

the Revision Committee in terms of sub-section (7) of section 6. However, when the Executive committee fails to discharge its statutory duty and function, then, as held above, it can hardly complain. That is why and advisedly the appeal is not provided to it and the appellate provision is couched in the language, which is found in sub-section (5) of section 6. Applying the salutary principles laid down in the Hon'ble Supreme Court judgment, we find the challenge bereft of any merit and substance.

28. Accordingly, we proceed to reject the writ petition. It is dismissed. Rule is discharged, but without any order as to costs.

(SMT. BHARATI H. DANGRE, J.)

(S.C.DHARMADHIKARI, J.)

Jayant  
Vishwanath  
Salunke

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