

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2018

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH
AND
THE HONOURABLE MR. JUSTICE P.D. AUDIKESAVALU

W.P.No. 3824 of 2014

&

M.P. No. 1 of 2014

Vidhya Vikashni Matriculation Higher
Secondary School,
rep. by its Correspondent,
V. Dharmalingam,
310, Jai Nagar, Kangayam Road,
Tiruppur 641 606.

...Petitioner

Vs.

1. The Government of Tamil Nadu,
rep. by the Secretary,
School Education Department,
Fort St. George,
Chennai - 600 009.

2. The Private Schools Fee Determination
Committee, rep. by its
Special Officer,
PTA Buildings, DPI Campus,
College Road, Chennai - 600 006.

...Respondents

Prayer: Petition under Article 226 of the Constitution of India
praying for issue of a Writ of Certiorarified Mandamus to call
for the records of the Committee, pertaining to the order in
proceeding No. Nil dated 03.09.2013 on the file of the 2nd
respondent and quash the same and consequently direct the
respondents to permit the petitioner school to follow the fee
structure proposed during the Memorandum of objection for the
academic year 2013-2014, 2014-2015 and 2015-2016.

For Petitioner :: Mr.K.J. Parthasarathy

For Respondents:: Mr.S.N. Parthasarathy,
Govt. Advocate for R1
Mr.S. Udhayakumar for R2

O R D E R

(Order of the Court was made by R. SUBBIAH, J.)

This writ petition is filed for issue of a Writ of Certiorarified Mandamus to call for the records of the Committee, pertaining to the order in proceeding No. Nil dated 03.09.2013 on the file of the 2nd respondent and quash the same and consequently direct the respondents to permit the petitioner school to follow the fee structure proposed during the Memorandum of objection for the academic year 2013-2014, 2014-2015 and 2015-2016.

2. The facts of the case are as follows:

(a) The petitioner school is affiliated to the Director of School Education, Chennai and is functioning from the year 1997. There are 77 teaching staff and 43 Non-Teaching Staff and the present student's strength of the school is 1844. According to the petitioner, the fee structure collected by the school is highly reasonable and there is no complaint of either profiteering or capitation from any quarters. The school entirely depends on the fee paid by the students and it has no other source of income. It is further averred by the petitioner that the Government of Tamil Nadu enacted "The Tamil Nadu Schools (Regulation of Collection of Fees) Act 2009" (hereinafter referred to as 'the Act') and "The Tamil Nadu Schools (Regulation of Collection of Fees) Rules, 2009" for the purpose of regulating the fee structure for the unaided schools including Matriculation Schools. It included Pre Primary, Primary, Middle, High and Higher Secondary Schools recognised by any competent authority and governed under any law or code of regulation in Tamil Nadu.

(b) Under Section 5 of the Act, a State Level Committee was constituted and the said Committee had circulated a questionnaire on private schools in Tamil Nadu asking them to furnish various details including the fee collected and the income and expenditure of the institution, within a period of 15 days. Pursuant to the same, the petitioner school had furnished the details containing the entire particulars about the income received in the form of fees from students and the expenses under all heads during the year 2011-2012 and 2012-2013, which was accepted with small modifications and similarly, the petitioner had also submitted proposals for the academic years 2013-2014, 2014-2015 and 2015-2016. However, according to the petitioner, there was no inspection by the Chief Educational Officer or his office nor were the petitioner called for any interaction and were not given any opportunity of being heard. But, before the Committee, the petitioner was heard and the copy of the proceedings dated 26.04.2013 had been issued wherein a very low fee structure was thrust on the petitioner in spite of

the clear finding by the Committee itself that the facts and particulars submitted by the petitioner, regarding their actual income through fee collection and actual expenses have been found to be correct by the Chief Educational Officer. Aggrieved by the determination of fee by the Committee, the petitioner had again approached the Committee vide representations dated 03.07.2013 and 02.08.2013. Subsequently, according to the petitioner, though they were called for a personal hearing, no opportunity of personal hearing was provided and they were only permitted to furnish their written submissions. Along with the written submissions, the petitioner had also enclosed all the details and the minimum required fee structure for the years 2013-2014, 2014-2015 & 2015-2016. However, the Committee, by the impugned order dated 03.09.2013 had fixed a meagre fee structure for the petitioner school oblivious of the fact that the fees charged by the school commensurate with the facilities provided by the school and the actual expenses involved in running and upkeep of the institution. According to the petitioner, the impugned order suffers from an error apparent on the face of the record, apart from various mistakes. Hence, the present writ petition.

3. Besides canvassing other points, the main grievance of the learned counsel for the petitioner is that while passing the impugned order, the 2nd respondent Committee has failed to take note of the guidelines stipulated by the Division Bench of this Court in the judgment rendered in Lakshmi Matriculation School, etc V. State of Tamil Nadu and Others reported in 2012 Writ L.R. 489. It is contended by the learned counsel for the petitioner that the 2nd respondent Committee, having verified that there was no profiteering in the petitioner school, ought to have approved the proposed fee structure filed in the Memorandum of Objections and has grossly erred in proceeding to determine the fee under Section 6(4) of the Act without any warranting circumstances. Furthermore, according to the learned counsel, when there is no absolute finding by the Committee that the petitioner school is not justified in collecting the fee according to its structure, it ought not to have determined a different fee structure, comparatively lower than the proposed fee structure filed in the Memorandum of Objections, in so far as the petitioner school is concerned. It is also the submission of the learned counsel for the petitioner that the impugned proceedings is illegal and in violation of the principles of natural justice. Hence, the learned counsel seeks to set aside the impugned order and to remit the matter for consideration afresh.

4. We have heard the learned Government Advocate for the 1st respondent and the learned counsel for the 2nd respondent on the above contentions.

5. Undisputedly, the academic years, for which the fee structure had been fixed by the impugned order dated 03.09.2013 have already elapsed and therefore, no useful purpose would be served in remanding the matter now for fresh consideration. Therefore, without expressing any opinion on the correctness or otherwise of the order dated 03.09.2013, passed by the 2nd respondent, the following direction is given, keeping in view the submissions made by either parties:

"It is made clear that while exercising the powers under the provisions of the Tamil Nadu Schools (Regulation of Collection of Fees) Act, 2009, for determining the amount of fees to be collected by the petitioner and taking any action in pursuance thereof from the current academic year (2018-2019) onwards, the Private School Fee Determination Committee, the 2nd respondent herein, shall not be influenced by the findings in the aforesaid order dated 07.10.2013 and that orders passed by that Committee shall be on merits and in accordance with law."

6. With the above direction, the writ petition is closed.
No costs. Connected M.P. is closed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

To

1. The Secretary,
School Education Department,
Fort St. George,
Chennai - 600 009.
2. The Special Officer,
Private Schools Fee Determination
Committee, PTA Buildings, DPI Campus,
College Road, Chennai - 600 006.

+1cc to Mr.A.R.Suresh, Advocate sr.no.7036

W.P. No. 3824 of 2014

nr 23/03/2018