IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 14.12.2017

DELIVERED ON : 25.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM
AND
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.Nos.38383, 38821 and 40262 of 2015

W.P.No.38383 of 2015

Vivekananda Matriculation School
represented by its Correspondent
Vivekananda Educational Trust
Dr.N.Manivannan,
1899, Solai Amman Koil Main Street,
Attanthangal, Redhills,
Chennai - 600 052.
Thiruvallur District. .. Petitioner

Vs

The Special Officer
Private School Fee Determination Committee,
DPI Compound,
College Road, Chennai - 600 006. .. Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order dated 09.03.2015 and the consequential order dated 28.07.2015 passed by the respondent committee fixing the fee structure for the academic year 2015-16 onwards for the petitioner's school and quash the same and consequently direct the respondent authority to take into account all actual expenses being incurred by the petitioner school for fixation of fee structure for the petitioner school viz., Vivekananda Matriculation School (30307), from the academic year 2015-16 in accordance with the guidelines stipulated by the Division Bench of this Court in the judgment dated 03.05.2012 in W.P.No.8489 etc. of 2012 (2012 (2) CWC 204) within a time to be stipulated by this Court.

W.P.No.38821 of 2015

Green Field Convent Matriculation
Higher Secondary School,
represented by its Trustee,
Narayanswamy Educational Trust,
Mr.K.N.Ranganathan, M.Com., M.Ed.
(Near Arumandhai Junction)
Pudhupakkam,
Boodhur Post, Chennai - 600 067.
Thiruvallur District. .. Petitioner

Vs

The Special Officer
Private School Fee Determination Committee,
DPI Compound,
College Road, Chennai - 600 006. .. Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order dated 14.05.2015 and the consequential order dated 25.08.2015 passed by the respondent committee fixing the fee structure for the academic year 2015-16 onwards for the petitioner's school and quash the same and consequently direct the respondent authority to take into account all actual expenses being incurred by the petitioner school for fixation of fee structure for the petitioner school viz., Green Field Convent Matriculation Higher Secondary School (3015014), from the academic year 2015-16 in accordance with the guidelines stipulated by the Division Bench of this Court in the judgment dated 03.05.2012 in W.P.No.8489 etc. of 2012 (2012 (2) CWC 204) within a time to be stipulated by this Court.

W.P.No.40262 of 2015

Don Bosco Matric Higher Secondary School (3115013) represented by its Principal,
Rev.Sr.Nambickai Mary,
27, Ethirajsamikoil Street,
Erukkancherry, Chennai - 600 118. .. Petitioner

Vs

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

2.The Private Schools Fee Determining Committee,
represented by its Special Officer,
PTA Building, DPI Campus,
College Road, Chennai - 600 006. .. Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the Committee, pertaining to the order of fixation dated 24.02.2015 on the file of second respondent Committee and quash the same, directing the respondents to permit the petitioner school to follow the proposed fee structure during the personal hearing, on 24.02.2015, for the academic years 2015-2016, 2016-2017 and 2017-2018.

Appearance:
For Petitioners :Mr.S.Thankasivan [W.P.Nos.38821 & 38383 of 2015]
Dr.Fr.A.Xavier Arulraj, senior counsel for Mrs.A.Arulmary [W.P.No.40262 of 2015]

For Respondents: Mr.Ayyadurai, Additional Advocate General

C O M M O N O R D E R
[Order of the Court was made by C.T.SELVAM, J.]

These writ petitions challenge the orders of the Fee Determination Committee constituted under Section 5 of the Tamil Nadu Schools (Regulation of Collection of Fee) Act, 2009.

2. Petitioner in W.P.No.38383 of 2015 seeks quash of the order passed by respondent on 09.03.2015 and the consequential order dated 28.07.2015 fixing the fee structure for the academic year 2015-16 onwards for the petitioner's school and a direction to respondent authority to take into account all actual expenses being incurred by petitioner school for fixation of fee structure for the petitioner school viz., Vivekananda Matriculation School (30307), from the academic year 2015-16 in accordance with the guidelines stipulated by the Division Bench

of this Court in the judgment dated 03.05.2012 in W.P.No.8489 etc. of 2012 (2012 (2) CWC 204) within a time to be stipulated by this Court.

3. Petitioner in W.P.No.38821 of 2015 seeks quash of the order passed by respondent on 14.05.2015 and the consequential order dated 25.08.2015 fixing the fee structure for the academic year 2015-16 onwards for the petitioner's school and a direction to respondent authority to take into account all actual expenses being incurred by the petitioner school for fixation of fee structure for the petitioner school viz., Green Field Convent Matriculation Higher Secondary School (3015014), from the academic year 2015-16 in accordance with the guidelines stipulated by the Division Bench of this Court in the judgment dated 03.05.2012 in W.P.No.8489 etc. of 2012 (2012 (2) CWC 204) within a time to be stipulated by this Court.

4. Petitioner in W.P.No.40262 of 2015 seeks quash of the order of second respondent dated 24.02.2015 and a direction to respondents to permit petitioner school to follow the proposed fee structure during the personal hearing on 24.02.2015, for the academic years 2015-2016, 2016-2017 and 2017-2018.

5. Heard Dr.Fr.A.Xavier Arulraj, learned senior counsel for petitioner in W.P.No.40262 of 2015, Mr.S.Thankasivan, learned counsel for petitioners in W.P.Nos.38821 & 38383 of 2015 and Mr.Ayyadurai, learned Additional Advocate General, for respondents. Perused the materials on record.

6. It is common ground that the decision of the Division Bench of this Court in Lakshmi Matriculation School vs. State of Tamil Nadu and others [2012 Writ L.R. 489], which upheld the validity of the Tamil Nadu Schools (Regulation of Collection of Fee) Act, 2009, informs the broad parameters to be followed by the Fee Determination Committee (hereinafter referred to as 'the Committee'). Towards easy appraisal, we have required petitioner schools to submit tabular statements of their grievances explaining their contentions on the reading placed by the Committee on the decision of this Court. Respective counsel have done so and as hereunder:

W.P.No.38383 of 2015

VIVEKANANDA MATRICULATION SCHOOL, REDHILLS, CHENNAI - 52

Dr.N.Manivannan, Correspondent
Cell : 9444352390

| Headings of Expenditure | Actual Expenditure | Fixed 9/3/2015 | Fixed After Objection 28/7/2015 | Variation | Relevant portion of Judgment 2012 (2) CWC 204 violated/applied erroneously |
|---|---|---|---|---|---|
| Staff Strength | 34 | 29 | 2 | 3 | (a) Teacher/ Student ratio has been discussed in para 90. Further staff strength has been discussed in Para 97. However, this has been applied under a misconstrued notion, with retrospective effect and thereby, salary for only a portion of teaching and non-teaching staff above has been addressed. This aspect has to be clarified.<br>------------------<br>(b) The expenses relating to these aspects are specifically covered in para 101 & 102 of the judgment. However fee fixation committee has disallowed a major portion of such expenses. This is in violation. These aspects have been dealt within paragraphs 94 and 99 of the judgment. However in spite of production of bills and voucher the fee fixation committee has disallowed a major portion. This action is in violative of the judgment. These aspects have |
| Staff Salary | 6730800 | 4176000 | 597600 | 1957200 | |
| Non-Teaching Staff | 965500 | 144000 | 183184 | 638316 | |
| E.P.F | 334166 | 149895 | - | - | |
| Electricity | 54225 | 45040 | 9185 | - | |
| Water Charges | 211000 | 9000 | 160620 | 41380 | |
| Internet and SMS Service | 151125 | 12000 | 139125 | - | |
| Printing | 161577 | 23130 | 32845 | 105602 | |
| Stationary Items | 171066 | 28858 | 24407 | 117801 | |
| Examination Expense | 102004 | 28647 | 73357 | - | |
| Books and Periodicals (Library) | 296779 | 8926 | 28230 | 259623 | |
| Teachings Aids | 39900 | 13300 | - | 26600 | |
| Sports and Games | 97300 | 32433 | - | 64867 | |
| Incentives for Good Result | 39000 | 8000 | 17000 | 14000 | |
| On Occasions Festival Gift | 75280 | 25093 | 45287 | 4900 | |
| Staff Welfare | 294624 | 36960 | 30360 | 227304 | |
| Profession | 103472 | 25000 | - | 78472 | |

GREEN FIELD CONVENT MATRIC. Hr. SEC. SCHOOL/3015014

| Head of Expenditure | Proposed Expenditure | | | | Relevant portion of judgment 2012 (2) CWC 204 violated/applied erroneously |
|---|---|---|---|---|---|
| | 2014-2015 | Expenses Accepted by the Committee on 14.05.2015 | Expenses accepted by the Committee on 28.05.2016 in the revision petition | Expenses not allowed by the committee | |
| Account (PART-I) | | | | | (a) Teacher/ Student ratio has been discussed in para 90. Further staff strength has been discussed in Para 97. However, this has been applied under a misconstrued notion, with retrospective effect and thereby, salary for only a portion of teaching and non-teaching staff above has been addressed. This aspect has to be clarified.<br>------------------<br>(b) The expenses relating to these aspects are specifically covered in para 101 & 102 of the judgment. However fee |
| A.Salary and Allowances | | | | | |
| Principal | 360000 | | | | |
| Teaching Staff | 9474841 | 8046000 | | 1788841 | |
| | | | | | |
| Non-teaching staff | 1644837 | 432000 | | 1212837 | |
| E.P.F. Contribution | 135338 | 103985 | | 31353 | |
| Security | 396000 | 234000 | | 162000 | |
| Total (A) | | | | | |
| B. Administration and Maintenance | | | | | |
| Electricity Charges | 89788 | 71788 | 14131 | 3869 | |
| Water Charges | 261000 | 66000 | 42000 | 153000 | |
| Property Taxes | 24245 | 24245 | | 0 | |
| Telephone & Mobile Phone | 62826 | 23314 | | 39512 | |
| Internet and SMS Services | 269738 | 30908 | 124312 | 114518 | |

DON BOSCO MATRIC HIGHER SECONDARY SCHOOL, ERUKKANCHERRY, CHENNAI - 600 118

| S.NO | GRIEVANCE | THE CLAIM | AMOUNT ALLOWED | RESTRICTED or DISALLOWED | REMARKS | THE REFERENCE TO JUDGMENT |
|---|---|---|---|---|---|---|
| A.SALARY AND ALLOWANCES | | | | | | |
| 1 | The actual teaching staff has been restricted | Teaching staff - 109 (Ref. Page 108) | Teaching staff - 100 (Ref. Page 142) | 9 teaching staff | The staff are appointed based on the necessity of the school | (i) Lakshmi School case Para. 133, 135, 155(iii) (ii) Rosary Matric case Para 29,30 |
| 2 | The actual paid salary has been restricted | Teaching (109)- Rs.1,47, 60,312/- (Ref. Page 108) | Teaching (100) - Rs.1,36, 09,773 + 3,06,694 = Rs.1,39, 16,467 (Ref. Page 81, 142) | Rs,8,43,845/- (Ref Page 147) | There is no profiteering in paid salary | (i) Lakshmi School case para 133, 135, 155(iii) (ii) Rosary Matric Case Para 29,30 |

| S.NO | GRIEVANCE | THE CLAIM | AMOUNT ALLOWED | RESTRICTED or DISALLOWED | REMARKS | THE REFERENCE TO JUDGMENT |
|---|---|---|---|---|---|---|
| 3 | Restriction of EPF contribution by the School | As per Feb.2015 contribution Rs.1,24,416 + 11,048 = Rs.1,35,464 X 12 = Rs.16,25,568/- (Ref. Page 133) | Allowed Rs.11,41,944 + 96,732 = Rs.12,38,676 (Ref. Page 82, 143 & 147) | Rs.3,86,892/- (Ref.Page 147) | It is a statutory payment and cannot be reduced | Lakshmi School case Para.99 |
| 4 | Restriction of payment on Gratuity | Rs.50,000/- | Totally Disallowed (Ref. Page 83,143/-) | Rs.50,000/- (Ref. Page 147) | | Lakshmi School case Para. 99 |
| | | B.ADMINISTRATION AND MAINTENANCE | | | | |
| 1 | Electricity Charges | Rs.3,33,270 | Rs.2,83,022 + 30,681 = Rs.3,13,703/- (Ref. Page 82,143) | Rs.19,567 (Ref. Page 147) | It is a meted bill, cannot be reduced | Lakshmi School Case Para 101(c) |
| 2 | Water Charges | Rs.2,86,650 | Rs.75,600 + 1,52,800 = Rs.2,28,480 (Ref. Page 82,143) | Rs.58,170 (Ref. Page 147) | The water consumption cannot be reduced for 3241 students | Lakshmi School Case Para 101(b) |

| S.NO | GRIEVANCE | THE CLAIM | AMOUNT ALLOWED | RESTRICTED or DISALLOWED | REMARKS | THE REFERENCE TO JUDGMENT |
|---|---|---|---|---|---|---|
| 3 | Telephone & Mobile Phone | Rs.41,814 | Rs.31,606+0=Rs.31,606 (Ref. Page 82,143) | Rs.10,208 (Ref. Page 147) | The order is silent on the amount (Rs.10,208) that is left out | Lakshmi School Case Para 101(e) |
| 4 | Printing | Rs.9,20,216 | Rs.1,62,050 + 6,63,395 = Rs.8,25,445 (Ref. Page 82,143) | Rs.94,771 (Ref. Page 147) | The bills were not considered | Lakshmi School Case Para 101(d) |
| 5 | Stationery Items | Rs.96,816 | Rs.76,236+0=Rs.76,236 (Ref. Page 82,143) | Rs.20,580 (Ref. Page 147) | The order is silent on the amount (Rs.20,580) that is left out | Lakshmi School Case Para 101(d) |
| 6 | Laboratory Maintenance | Rs.3,42,045 | Totally Disallowed (Ref. Page 82,143) | Rs.3,42,045 (Ref. Page 147) | The Laboratory is a mandatory requirement and involves recurring expenditure | Lakshmi School Case Para 101(h), 102(c) |

| S.NO | GRIEVANCE | THE CLAIM | AMOUNT ALLOWED | RESTRICTED or DISALLOWED | REMARKS | THE REFERENCE TO JUDGMENT |
|---|---|---|---|---|---|---|
| 7 | Professional Fee | Rs,3,76,437 | Rs.13,000 + 1,53,540 = Rs.1,66,540 (Ref. Page 82,143) | Rs.2,09,897 (Ref. Page 147) | It is a paid amount, on the professional services rendered to the school, such as auditing, legal and other consultancy | Lakshmi School Case Para 101(n) |
| C. OTHER MISCELLANEOUS EXPENSES | | | | | | |
| 1 | Building Maintenance | Rs.7,09,036 | Totally disallowed (Ref. Page 83, 143) | Rs.7,09,036 (Ref. Page 147) | - | Lakshmi School case Para. 102 (b) |
| 2 | Equipment Maintenance | Rs.4,23,252 | Totally disallowed (Ref. Page 83, 143) | Rs.4,23,252 (Ref. Page 147) | Needs lot of repair and replenishment, involving recurring expenditure | Lakshmi School case Para 102(d) |
| 3 | Security services | Rs.3,68,461 | Rs.0+2,52,0000 = Rs.2,52,000 (Ref. Page 83, 143) | Rs.1,16,461 (Ref. Page 147) | Security arrangement is essential for the school the expenses cannot be reduced | Lakshmi School case Para.102 (g) |
| D.SPECIFIC PURPOSES | | | | | | |

| S.NO | GRIEVANCE | THE CLAIM | AMOUNT ALLOWED | RESTRICTED or DISALLOWED | REMARKS | THE REFERENCE TO JUDGMENT |
|---|---|---|---|---|---|---|
| 1 | Seminar | Rs.30,477 | Rs.1,681 + 0= Rs.1,681 (Ref. Page 82, 143) | Rs.28,796 (Ref. Page 147) | These heads of expenditure are basis to the overall development of the students and cannot be artificially restricted | Lakshmi School case Para 113 |
| 2 | Group Activities | Rs.7,773 | Totally disallowed (Ref. Page 82, 143) | Rs.7,773 (Ref. Page 147) | | |
| 3 | Function & Celebration | Rs.2,36,419 | Rs.1,62,050 + 0 = Rs.1,62,050 (Ref. Page 82, 143) | Rs.74,369 (Ref. Page 147) | | |
| 4 | Extra-curricular Activities | Rs.1,71,878 | Rs.72,000+ 35,284= Rs.1,07,284 Ref. Page 82, 143) | Rs.64,594 (Ref. Page 147) | | |
| 5 | On Occasions Festival Gift | Rs.1,61,001 | Rs.26,400+ 82,700= Rs.1,09,100 Ref. Page 82, 143) | Rs.51,901 (Ref. Page 147) | | |
| 6 | Books and Periodicals (Library) | Rs.1,10,182 | Rs.23,722 + 23,722= Rs.47,444 (Ref. Page 82, 143) | Rs.62,738 (Ref. Page 147) | | |
| | Total | | | Rs.35,74,895 (Ref. Page 147) | | |

7. Dr.Fr.A.Xavier Arulraj, learned senior counsel for petitioner in W.P.No.40262 of 2015, submitted that earlier and in respect of about 10000 schools, the School Development Fund, the surplus fund and the fund for infrastructure grading were calculated by considering the expenditure under salary and allowances of both teaching and non-teaching staff including employee provident fund, expenses on administration and maintenance as also miscellaneous expenses. However, in respect of petitioner school in W.P.No.40262 of 2015 only the salary of the teaching staff had been taken into consideration. The entire salary of the non-teaching staff, other allowances including EPF contributions and gratuity paid to teaching staff as also expenses on administration and other miscellaneous expenses had been left out with the result that the fee structure had been grossly under calculated. Failure to adopt an uniform pattern of determination has led to discrimination. In refusing to take into consideration the EPF, ESI, pension and gratuity for the purpose of calculation of salary, the Committee erroneously reasoned that salary was only that which was paid every month for the purpose of teaching and EPF, ESI, pension and gratuity were privileges and perquisites attached to the profession of teaching and could not be taken as salary, stating 'the tuition fee is something that should be equivalent to salary alone. No other perquisites of the service can be added as salary as the same is not tuition fee. Because of such difference the four items above mentioned become payable only when the staff goes out of tenure of office. They cannot be contended as taken out from salary. They are calculated in proportion to the salary. They have not been paid for the coaching or the course of study. Therefore they lose the character of salary or tuition fee. They cannot be included as tuition fee. Therefore 28%-35% can be given only on the tuition fee.' Learned senior counsel submitted that a reference to Section 17 of Income Tax Act would show that the term 'salary' would take within its sweep also Employees Provident Fund, Employees State Insurance, Pension and Gratuity.

8. Learned senior counsel informed that Sections 6 and 7 of the Tamil Nadu Schools (Regulation of Collection of Fee) Act, 2009, prescribed the mode of fixation of fee and took this Court through various paragraphs of the judgment of the Division Bench of this Court in Lakshmi Matriculation School which have a bearing on the issue on hand. Learned senior counsel submitted that a more holistic approach is to be taken as the act of teaching cannot stand alone and be conducted without other supportive activities and expenditure. Learned senior counsel submitted that the narrow interpretation placed by the Committee was in contravention of the judgment of the Supreme Court in the Modern School v. Union of India and others [2004 (5) SCC 583] and the Division Bench judgment of this Court in Lakshmi Matriculation School. Learned senior counsel further submitted

that no provision for escalation in expenditure on administration and maintenance had been made and unmindful of inflation, a fixed figure had been informed for the initial year and three successive years. Learned senior counsel submitted that owing to erroneous approach of the Committee the petitioner school had not been able to undertake any development or renovation work over a period of three years and was driven to exhaust all the fixed deposits built up by it over several years towards providing for future development. Learned senior counsel made further submissions on particular heads, reflected in the tabular statements and we duly will deal with the same.

9. Making submissions in support of W.P.No.40262 of 2015, learned senior counsel reiterated that in the Rosary Matriculation School case, it had been explained that it was not open to Government to impose any restriction on strength of teaching and non-teaching staff in minority schools.

10. Learned senior counsel submitted that against the institution informing the number of teaching staff as 109, the Committee had permitted a total staff strength of 99 + 1 and upon the petitioner school raising objections, the Committee accepted total number of teaching staff as 109 but against the claim of the total annual salary being Rs.1,47,60,312/-, restricted the same to Rs.1,39,16,467/-. Petitioner institution ought to be allowed also the difference sum of Rs.8.43 lakhs. Learned senior counsel submitted that by its order under challenge, the Committee had, regards salary for teaching staff for co-curricular activities, held:

> '10(b). Salary for Teaching staff of co-curricular activities, for a realistic Salary, commensurate with the periods of time devoted, strength of students, actuality of the Salary paid in ECS, the nature of Full time (or) Part time, and the qualification and experience may all be considered.
>
> 10(c). "28% to 35% on tuition fee" was ordered in the judgment of the Division Bench of the Honourable High Court dated 3.5.2012 and the same can be described in the manner mentioned below:
>
> i) Development fund for purchase, up-gradation = 10%
> Replacement of furniture, fixture and equipment
> Virtually amounting to maintenance.
>
> ii) Surplus for Location 10% - 15%
> Village/Town Panchayat Corporation = 10%
> Municipality or District Head Quarters = 12%
> Corporation = 15%
>
> iii) Infrastructure Grading = 8%- 10%
>
> Of course in order to enhance and expand the

expense on the head of Salary, representation was made that instead of 28% - 35% on tuition fee, it may be 28% - 35% not only on tuition fee but also on EPF, ESI, Pension and Gratuity.

The argument advanced in support thereof is that the above mentioned four items are part and parcel fo salary.

This is unacceptable because salary is that which is paid every month for the purpose of teaching; whereas the above items are the privileges and perquisities attached to the services of the teaching and cannot be taken as salary. The tuition fee is something that should be equivalent to salary alone. No other perquisites of the service can be added as salary as the same is not tuition fee. Because of such difference the four items above mentioned become payable only when the staff goes out of tenure of office. They cannot be contended as taken out from salary. They are calculated in proportion to the salary. They are not been paid for the coaching or the course of study. Therefore they loose the character of salary or tuition fee. They cannot be included as tuition fee. Therefore 28% - 35% can be given only on the tuition fee.

10(d) Salary for Non-teaching Staff: At the end of Para 97 of jdgt. dt.3.5.2012, it was observed that the salary payable to non-teaching staff can be considered, subject to proof as per the statutory norms of appointment and that it was further observed that in such restriction regarding strength of teaching and non-teaching staff (also in minority schools) is subject only to Government orders. (vide para 139 of the jdgt dt.3.5.2012). A balancing approach both in favour of parents (vide para 114) and also in favour of the schools (vide para 115) was observed (the expense on salary for Security and Sanitary staff were included in non-teaching staff salary).

10(e) Salary through ECS:

Payment of the salary to staff hereinafter only through ECS.

Any time on information or on inspection, if it is found that payment is not made under ECS in future, suitable action in accordance with law will be taken against the institution.'

11. Learned senior counsel contended that the non-inclusion of EPF, ESI, pension and gratuity in computing the salary payable at 28 to 35% of the tuition fee had a cascading adverse effect on the institution. By such non-inclusion there is a restriction in the salary component to as much as Rs.66 lakhs

and when 25% of the sums so calculated as salary is permitted towards surplus development fund, the institution would lose from year to year. Learned senior counsel submitted that the approach of the Committee amounted to restricting the rights of the minority institutions which was impermissible as against regulating the same, which was. Learned senior counsel submitted that the Committee disallowed the total claims of Rs.7,09,036/- towards building maintenance, Rs.4,23,252/- towards equipment maintenance and sum of Rs.1,16,461/- as against Rs.3,68,461/- towards security services placing an erroneous reading on the decision in Lakshmi Matriculation School case. Paragraph No.108 of such decision has been misunderstood by the Committee as one permitting restriction or disallowance. In paragraph No.110 in Lakshmi Matriculation School case the Division Bench has informed the percentage of development charges permissible in respect of institutions at different locations. It is pertinent to note that in so doing care has been taken to inform 'other than minority educational institutions'. Therefore, there can be no restriction on the development expenses of minority institutions. Learned senior counsel further submitted that the Committee has erred in fixing an uniform sum of Rs.39,49,708/- for four years viz., 2014-15, 2015-16, 2016-17 and 2017-18 under the head miscellaneous expenditure without taking into account inflation and escalating costs.

12. Learned senior counsel submitted that the definition placed upon 'salary' by the committee is anomalous. Committee has, in computing annual expenditure informed salary and allowances as one head of expenditure but kept out of the ambit of salary that paid to non-teaching staff including EPF and ESI contributions.

13. Mr.Thankasivan, learned counsel for petitioner in W.P.Nos.38383 and 38821 of 2015, submitted that the Committee had restricted the number of teachers which could be employed by the School and had done so on the basis of The Right of Children to Free and Compulsory Education Act, 2009. Learned counsel submitted that The Right of Children to Free and Compulsory Education Act, 2009, informs the minimum number of teachers necessary for a particular strength of students. In Lakshmi Matriculation School, the Division Bench of this Court had informed that the quality of education also depends on the number of teachers. Learned counsel submitted that applying G.O.Ms.No.231 dated 11.08.2010 to existing strength of teachers in Schools would have devastating effect and legal repercussions. Such application suggests retrenchment or alternatively payment to teachers in other ways. In Lakshmi Matriculation School, the Division Bench had not dealt with the issue of how staff found in excess were to be dealt with. However, it had been observed

'92. Education is an important tool for all round development of an individual. Educational Institution is established to impart knowledge to the students to facilitate his development. In the beginning, even though educational institutions were established without profit motive, over the years, taking advantage of the demand, more number of private educational institutions were established, of course with profit motive. The rush for admission in private schools is occasioned by the standards maintained in such schools. It is in the interest of the public that such good quality schools are established. The schools should have autonomy in the right of appointment and selection of the teachers to maintain standards of education. For providing better quality education, private educational institutions have autonomy in selecting quality teachers. If quality teachers are not appointed, the standards will be lowered from excellence to a level of mediocrity.

93. To maintain the quality of education, private educational institutions also have the autonomy to select and retain experienced teachers to impart quality education. While so, the Government is not justified in saying in view of the availability of unemployed teachers salary of teaching staff could be fixed at Rs.6,000/- for nursery and primary school secondary grade teachers; Rs.9,000/- for middle school Secondary grade teachers; Rs.14,000/- for B.Ed. Teachers and Rs.15,000/- for Post Graduate teachers. By so restricting the salary of teaching staff, the private educational institutions cannot be compelled to compromise on quality of education imparted to young children. In such circumstances, the learned Advocate General has submitted that salary should be paid to teachers as per rules and the schools may be directed to open ECS account for each teacher, which in our considered view, merits acceptance. In so far as non-teaching staff, Minimum Wages Act is applicable and minimum wages are payable and if the minimum wages are not paid, the School authorities would be subjected to penal consequences.'

Learned counsel submitted that in any event, G.O.Ms.No.231 dated 11.08.2010 can only be prospective. Learned counsel therefore seeks an observation on such aspect. For the rest, learned counsel adopted the submissions of learned senior counsel for petitioner in W.P.No.40262 of 2015.

14. Learned Additional Advocate General submitted that adoption of the pupil-teacher ratio prevailing in the State of Tamil Nadu had been found unobjectionable by this Court in Lakshmi Matriculation School. He submitted that the primary

grievance of petitioner schools were four fold. They alleged (1) discrimination between expenses on salaries of teaching and non-teaching staff (2) administration expenses were not granted (3) EPF and ESI contributions were not given credit to in computing salaries and (4) restrictions have been placed on electricity bills. He submitted that in Lakshmi Matriculation School, Division Bench of this Court had required minority schools to file audited reports but they had not. He would point to a particular instance where one belonging to a congregation had been paid three times the salary of another teacher though she had put in lesser service. One member working was shown as a teacher but her name found no mention in attendance register. He submitted that any interference with the decision of the Committee on the pupil-teacher ratio would result in schools making excessive claims.

15. We have given our anxious consideration to submissions made by learned counsel on either side. We are of the view that it would be appropriate to set aside the orders under challenge and remand the matters for fresh consideration of the Committee. We trust that in doing so, the Committee will take into consideration our observations which flow from the decision of the Division Bench of this Court in Lakshmi Matriculation School case and are herein below informed. We are to inform that private institutions are at liberty to fix their fee structure towards meeting their running costs as well as making provision for their future needs. It is only when the Committee finds the fees structure formulated by schools objectionable that it will enter upon the exercise of determining the fees to be collected by such institution. So long as the fees structure formulated by the school does not amount to profiteering or is not exorbitant, the Committee should not interfere.

Teacher-student ratio:

> In the Lakshmi Matriculation School case, the Division Bench has held as follows:
>
> '90. Teacher-student ratio:- Yet another grievance is that in the State of Tamil Nadu, the teacher-student ratio is fixed for the primary school level at 1:30, in the middle school level at 1:35; and for the higher classes at 1:40. For determining the fee Committee has adopted that ratio. Grievance of the writ petitioners that Government cannot impose restrictions on unaided private schools regarding teacher-student ratio. If teacher-student ratio is varied, the burden of excess salary to the teachers would be shifted to the students casting heavy burden upon the parents. When Committee adopted teacher-student ratio prevailing in the State of Tamil Nadu, private schools cannot have any valid grievance. The objection raised by the writ petitioner schools in respect of teacher-student ratio cannot be considered.

132. By restricting the total number of teaching and non-teaching staff, the Committee has considered only lesser salary and not actual salary paid and thereby the minority educational institutions are left with huge deficit, which amount to restricting the right of minority institutions.

133. Because of their constitutionally protected liberty of administration, the Minority Educational Institutions are entitled to decide number of staff, their pay scale, attendant benefits and welfare schemes, innovative methods for effectiveness of education and excellence. As rightly contended by the learned counsel for Minority Educational Institutions, the Committee cannot restrict any of the said activity or its expenditure in the name of regulation. Restrictions of staff and fixation of salary and sundry expenses also infringe into the constitutionally protected right of administration of Minority Educational Institutions. There shall not be restriction regarding the salary payable to teaching and non-teaching staff, which, of course, is subject to the Government Scale of Pay and Government Orders.

134. Being minority educational institutions, they have the autonomy to have the best teacher for better quality education to be imparted. Ill-equipped teachers and sub-standard staffs would bring down the quality in excellence. Like in unaided non-minority educational institutions, there cannot be any rigidity in respect of salary payable to the teachers. Any such stipulation would interfere with the overall administrative control by the Management and would infringe its rights to establish and administer the educational institutions.

135. The employment of expression right to establish and administer and educational institutions of their choices" in Article 30(1) gives the right to minority institutions which is of very wide amplitude. Therefore, a minority educational institution has a right to employ teaching and non-teaching staff as per their requirement. Any restriction on the strength of teaching and non-teaching staff would amount to restricting right of administration of minority community, which is protected under Article 30(1) of the Constitution of India.'

Therefore, the observation in Paragraph No.90 in Lakshmi Matriculation School 'that the objection raised by writ petitioner schools in respect of teacher-student ratio cannot be considered', would not apply in respect of minority educational institutions. Even in respect of other private schools, it may be borne in mind that the teacher-student ratio determined in keeping with Section 25 of the Right of Children to Free and

Compulsory Education Act, 2009 and that the Right of Children to Free and Compulsory Education Rules, 2010, were brought into force only on 09.04.2010. Strict adherence thereto greatly would affect schools which held higher teacher strength even prior thereto. As rightly contended by learned counsel for writ petitioners, schools cannot avoid expenditure on the teachers found so in excess by resorting to retrenchment which in turn would bring with it a host of difficulties. We would expect that the Committee would provide some leeway on provision of salaries for teachers at such Schools.

Non-teaching staff:
We would simply reproduce paragraph Nos.94 and 97 in the Lakshmi Matriculation School and seek adherence thereto with the rider that the statutory norms applicable from time to time be adopted and permitted.

> '94. In its written submission, the Government stated that the Pay, Allowances and Employees Welfare Schemes shall be considered and stated how it will be considered. Learned Advocate General contended that (i) Schools may be directed to open ECS account for each teacher for paying salary and other allowances; (ii) insofar as EPF Contribution, ESI, Pension, Gratuity, the same shall be considered on the bills produced to the credit of the concerned account of Government. Insofar as, Christmas gift to Staff and Incentive for good results/festivals, learned Advocate-General submitted that this gets included in the allowances given at Rs.600/750 per annum per student. The said amount of Rs.600/750 per annum per student is allowed for sundry expenses. Therefore, it cannot be said that Christmas gift, incentive for good results/festivals could also be included under sundry expenses. Whatever is the expenditure towards Christmas gift, incentive for good results, the same shall be considered.
>
> 97. The number of non-teaching staff to be employed is fixed is in accordance with the Government Order. The Writ Petitioners cannot have any valid objection regarding strength of non-teaching staff, which is to be correlated with that of the total students. In the written submissions, the learned Advocate General has submitted that as per the Statutory norms, strength and pay for non-teaching staff shall be as under:

| S.No. | School having following student strength | Rs.4000 (Clerk) | Rs.3000 (Attender/Watermen) | Rs.2000 Sweepers/Scavengers/Watchmen (Part-Time) |
|---|---|---|---|---|
| 1 | 100 | 1 | 1 | 1 |
| 2 | 200 | 1 | 1 | 2 |
| 3 | 300 | 1 | 2 | 2 |
| 4 | 400 | 1 | 2 | 3 |
| 5 | 500 | 2 | 2 | 3 |
| 6 | 600 | 2 | 2 | 4 |
| 7 | 700 | 2 | 2 | 5 |
| 8 | 800 | 2 | 3 | 5 |
| 9 | 900 | 2 | 4 | 5 |
| 10 | 1000 | 2 | 4 | 5 |
| 11 | 1100 | 2 | 4 | 5 |
| 12 | 1200 | 3 | 4 | 5 |

The salary paid to non-teaching staff shall be considered subject to proof as per the statutory norms of appointments and payment of salary through ECS. In so far as statutory payments like EPF, ESI, uniforms and other payments, the observation in Para No.94 shall hold good.

(underlining supplied)'

Administration and Maintenance:

Here again, we would reproduce paragraph Nos.101 and 102 in the Lakshmi Matriculation School case which spell out that which is permitted and the limits thereof. Where the claims towards administration and maintenance expenses are supported by bills and vouchers, the Committee normally should accept the same. If despite production of vouchers and bills, the Committee is of the view that certain expenditure under such head are not to be permitted, the Committee specifically should state its reasons.

'101. Administration:

| | |
|---|---|
| a. Taxes<br>b. Water | Property Tax, Water tax etc - will be considered. |
| c. Electricity Charges | Payment of electricity bill & fuel for Generator-will be considered excepting expenses of cost and installment of generator. |

| | | |
|---|---|---|
| d. | Printing &Stationery | Printing of cash book, ledgers, fee receipts, school magazine, prospectus, application forms, report cards, circulars and purchase of office stationery items will be considered. |
| e. | Postage & Telephone | Internet/SMS service- will be considered. |
| f. | Examination | Printing of Question papers, answer scripts, hand work material for students, projects will be considered. |
| g. | Books & Periodicals | Will be considered to a reasonable extent. |
| h. | Laboratory Expenses | With a reasonable level so as not to burden the fee structure. |
| i. | Administrative charges | |
| j. | Audit&Legal Fees | |
| k. | Hospitality | |
| l. | Teaching aid | Teaching aids to the necessary level may be considered along with expenses on Smart Class and software. That expenses of Smart Class may be bifurcated into<br>1.Investment on installation of software; and<br>2. Utility Services including contents of the CDs & DVDs and the expenses on the demonstrators. The second part alone may be put on the head of student as fees; first being the duty of the Proprietor of the school to install machine just like he makes construction of the building to get opening permission. |
| m. | Travelling and Conveyance | Will be considered along with fee fixation @ Rs.2/- per kilo meter rate for Van and bus etc., (to be suitably varied from time to time) for utility of the students. |
| n. | Professional Fee | It is a personal obligation while continuing in any avocation of life. |

| | | |
|---|---|---|
| o. | Advertisement | This may not go to the utility of the student; the advertisement regarding the calling for teachers may alone be admitted as it amounts to administrative charges. |
| p. | School recognition charges | It is a paramount duty of the proprietor for getting opening permission; it has nothing to do with student utility. |
| q. | Bank/Interest charges | |

In our considered opinion the same shall be taken as guidelines for calculating expenditure on administration. As rightly contended by the learned Advocate General, those expenses that will go the utility of the student shall be taken into account by the Committee.

102. Other Miscellaneous Expenses and Maintenance:- Here again, the learned Advocate General has submitted that the expenditure on the following heads of maintenance shall be considered by the Committee:-

a. Campus Maintenance: Salary of sufficient number of Gardeners, whose services may be useful for such maintenance shall be considered.

b. Building Maintenance: Subject to proof will be considered.

c. Laboratory Maintenance: This will be considered.

d. Equipment Maintenance: This will be considered.

e. Vehicle Maintenance: Will be included in the charges for per running Kilo meter, fixable as additional fee prescribed on such head (as now it is being done).

f. Sanitation: Services of Scavengers will be considered. Purchase of Phenyl, Acid, Brooms, Bleaching powder, brushes, mops etc. will be considered.

g. Security Services: This will be considered by employing part time watchmen with reasonable pay.'

Salary and allowances to teaching and non-teaching staff:

The Division Bench in Lakshmi Matriculation School case, in paragraph No.99 has held thus:

'99. Salary and Allowances to Teaching and Non-teaching Staff:

| | | |
|---|---|---|
| i. | Salary &Allowances (Basic + DPA + DA + HRA + CCA + MED. AL) Earned Leave + Yearly increment and Arrears based on shift in slabs. | Since salary should be paid to teachers as per Rules schools may be advised to open ECS A/c for each teacher and the actual salary credited may be taken as salary Component. Subject to a maximum pay as recommended in 6th Pay Commission. (to be read as in keeping with such pay commission as applicable at the relevant time) |
| ii. iii. iv. v. | E.P.F. Contribution) E.S.I) Pension) Gratuity) | Considered based on bills produced to the credit of concerned account of Government instead of the school itself. |
| vi. vii. | Christmas Gift to Staff & Pen/Incentive for Good Results/ Festivals) | To be considered subject to proof. |
| viii. | Retirement Purse | To be considered subject to proof. |
| ix. x. xi. xii. xiii. | Ex gratia Worker's Uniform Staff Uniform Staff Welfare Staff Insurance | Will be considered subject to proof. |

(portions in brackets and italics are supplied by us)'

Thus, while salaries and allowances would be credited to specific ECS accounts of teachers, contribution towards social welfare measures such as EPF etc. are to be considered by reference to bills produced informing credit to concerned heads of Government accounts. In our considered view these too are to be considered as components of salary both in respect of teaching and non-teaching staff.

16. Other incidental expenses covered under vi to xiii of paragraph No.99 would be considered subject to proof. Here again, if expenses are supported by bills and vouchers, the Committee normally should accept the same. If despite production of vouchers and bills, the Committee is of the view that certain expenditure under such head is not to be permitted, the Committee specifically would state its reasons.

17. Both in respect of expenditure towards salary of teaching as also non-teaching staff by minority institutions the following in Lakshmi Matriculation

School is to be kept in mind:

> '155 (iii) There shall not be restriction regarding the salary payable to teaching and non-teaching staff, which, of course, is subject to the Government Scale of Pay and Government Orders. The Committee shall not interfere with the expenditure of the minority educational institutions on its cultural and religious activities to retain its character as minority institutions.'

The position is reiterated in Rosary Matriculation Higher Secondary School [2014 (1) CTC 636] stating

> '29. Certainly, the Committee cannot exercise its power in restricting the staff both under Teaching and Non-Teaching categories, in respect of the unaided minority schools. Such restriction imposed by the Committee on all these schools undoubtedly goes contra to the observations and guidelines made by this Court in the earlier decision reported in Lakshmi Matriculation School and Others Vs. State of Tamil Nadu and Others (2012 (2) CWC 204).'

In such case, this Court, concerned that an erroneous interpretation should not be placed on the last sentence at paragraph No.139 in Lakshmi Matriculation School viz., 'any restriction regarding strength of teaching and non-teaching staff in minority schools is subject only to Government Orders', has cleared the air by stating :

> '22. Therefore, we clarify that the observation made at Paragraph (139) that "any such restriction regarding strength of teaching and non-teaching staff in Minority schools is subject only to Government Orders" cannot be construed as conferring a right on the Government to pass orders to restrict the staff strength without reference to the findings rendered at Paragraphs (132) to (135) and (155). Certainly an observation made within the same judgment cannot go contra to the law declared or ratio decided in other part of it. If any observation is so made, an over all reading of the entire judgment has to be made to find out the actual mind of the Court in declaring the law. A law declared is the ratio decidendi and binds the parties, whereas an isolated passing observation not in consonance with the law so declared is obiter.
>
> 30. Therefore, we are of the view that the impugned orders in all these writ petitions have to be set aside and the matter has to be remitted back to the Private Schools Fee Determination Committee to

consider the case of the respective petitioners afresh in the light of the order passed by this Court in the matter of Lakshmi Matriculation School and Others Vs. State of Tamil Nadu and Others (2012 (2) CWC 204), more particularly, in the light of the observations made at Paragraphs (132) to (135), (139) and (155), however, without getting influenced by the last sentence at Paragraph (139) viz., "any restriction regarding strength of teaching and non-teaching staff in Minority Schools is subject only to Government Orders".'

18. We trust that what is herein above reproduced also meets the contention of learned Additional Advocate General, one that may also play on the mind of the Committee, viz., of minority institutions making preferential payments of salary to persons who have put in lesser years of service. Such are matters which strictly are within the domain of the minority institutions. We may herein impress that in the Lakshmi Matriculation School case, the Division Bench has informed that audited statements of Minority Educational Institutions generally should be accepted stating:

> '155(i) Audited Statement submitted by the Minority Educational Institutions may be accepted by the Committee;
>
> (ii) In case the Committee does not approve the auditors' statement submitted by the minority educational institutions, the Committee shall record its reasons for not accepting the report. Thereafter, the Committee shall afford reasonable opportunity to the minority institutions and thereafter shall pass the final order.'

We would trust that the Committee would act in keeping with the above.

19. The approach towards minority educational institutions necessarily has to be different as informed by the Division Bench in Lakshmi Matriculation School in the following words:

> '143. Financial Transactions and the Corporate management of Minority Educational Institutions run by Catholic Dioceses and various congregations::-
> These schools are administered by various Catholic Dioceses and different religious Congregations of the Catholic Church. Those minority educational institutions run by various Catholic Dioceses and their different Congregations. These educational institutions are under the network of management. Additional written submission is filed elaborating upon the Corporate School Development Fund. The minority educational institutions in Tamil Nadu is said to have a track record of 300 educational

services and are stated to be having cultural net work and are also having 'Corporate School Development Fund'. They are having 'Corporate School Development Fund' for deployment of funds to needy schools, which are run for poor and needy children and also Hill Tribes.

144. Any restriction to the financial transaction of the minority schools would amount to dismember the cultural network of the minority institutions and need to have sufficient reasonable surplus not only for its own development but also for the development of the cultural network.

145. Learned counsel placing reliance on an unreported judgment of Division Bench of this Court dated 17.12.1975 in W.P.Nos.4478 of 1974 etc., batch, contended that in the name of fee regulation, the Committee is destabilizing the foundation of resources and financial assets owned by the Committee, practised for more than a century, without any profiteering. In the said judgment, the Division bench of this Court held as under:

> To ask for prior permission of the competent authority for utilisation of funds for bonafide purposes connected with the school involve a blanket power to the competent authority, which seriously affects the right to administer minority institutions. ..... The right to administer a minority institution includes the right to administer its funds which means that the minority institution must have the liberty to invest the moneys in whichever way it thinks fit, and its freedom to invest or deposit in whichever way it would think safe or proper cannot be infringed upon.

146. Resources invested by the Educational Institutions run by Catholics are held in common by Corporate Educational Agencies. Therefore, the School Development Fund can be permitted to be held in common under the form of Corporate School Development Fund by the respective Educational Agencies for advantageous deployment of resources for needy schools and for expansion of the Educational Agencies. This centralization of School Development Fund into Corporate School Development Fund is meant for enhancing the educational stream and used for that purpose alone. Thus, the schools run by Catholic Dioceses and their various Congregations stand on different footing from other educational institutions.

147. Percentage of income to be allowed for school development is 15% of the total expenditure, but in none of the minority schools, Committee had given 15%

for growth development. Based on the location of schools, Committee has allowed surplus for development only from 5% to 9%. The learned counsel Mr.Xavier Arulraj submitted that there are very good minority schools in rural areas (Like Montfort School in Yercaud) and while so, allowing surplus at 5% to 9% based on location of Schools is a misnomer. We find much force in the contention of learned counsel for petitioners. All the minority educational institutions need to have a reasonable surplus for its own development and also being member of Corporate Management.

148. As per the ratio of Modern School case, the minority educational institutions need to have reasonable surplus for its own development and also for development of cultural network of minority institutions. While for its own development the Minority Institutions are entitled to have 15% surplus, it should also be a member of cultural net work and enhance the educational stream. By being member of cultural net work for Corporate School Development Fund for deployment of resources for other needy school, it would be appropriate to allow another 10% surplus for Minority Educational Institutions run by Catholic Institutions.

149. For private unaided non-minority schools, in Para Nos. 109 and 110, we have fixed reasonable surplus at the slab of 10-15% depending upon the location. In so far as minority educational institutions run by Catholic Dioceses and their various Congregations, keeping in view 'Corporate Development Fund' maintained, it would be appropriate to allow 15% plus 10%, totalling 25% as surplus for the minority educational institutions irrespective of the location of the school. Likewise, reasonable increase in fee structure at the rate of 7=% to 10% should be allowed to the minority educational institutions also depending on the availability of infrastructure upon the location.

150. Other Minority Educational Institutions Other Minority Educational Institutions other than run by Catholic Dioceses and their various Congregations also need to have reasonable surplus for its own development. Irrespective of location, those Minority Educational Institutions shall be entitled to 15% surplus irrespective of their location of the school. They shall also be entitled to reasonable increase in fee structure at the rate of 7=% to 10% depending on the location.’

20. We are of the view that schools are to be permitted set-off against depreciation of value of buildings and denial thereof on the ground that appreciation in land values would offset the same, is unjustified. Schools cannot sell off lands to re-construct buildings. Taking a cue from paragraph No.104 in decision in Lakshmi Matriculation School, we would express the view that it would be appropriate to permit depreciation at 10% on estimated cost in keeping with prevalent Public Works Department guidelines. We are also of the view sundry expenditure on students cannot be static and reasonable provision may be made therefor.

21. Learned senior counsel, Dr.Fr.A.Xavier Arulraj, submitted that towards enabling the adoption of an uniform procedure in issuing the initial notice to schools, the Committee may adopt a standard format. In keeping with our request, learned senior counsel has submitted a draft format which meets with our approval. We reproduce the same hereunder:

Format of Expenditure

| HEAD OF EXPENDITURE | Expenditure of the previous Academic Year |
|---|---|
| Account (PART - I)<br>Salary, Allowances, Welfare Scheme and other welfare Activities | |
| A.Salary and Allowances | |
| Principal | |
| Teaching Staff | |
| Non-teaching staff | |
| E.P.F.Contribution | |
| E.S.I | |
| Earned Leave | |
| Gratuity | |
| Pension | |
| Retirement Purse | |
| Total | |
| B.Other Schemes and Benefits for the Staff | |
| Management Contribution to LIC/Medical Insurance | |
| Staff Uniform | |
| Incentives for Good Results | |

| HEAD OF EXPENDITURE | Expenditure of the previous Academic Year |
|---|---|
| Occasional Festival Gifts | |
| Any other ... | |
| Total | |
| Account II - Administration | |
| Electricity Charges | |
| Fuel for Generator | |
| Water Taxes and Water Charges | |
| Property Taxes | |
| Telephone & Mobile Phone (Administrative Purpose) | |
| Internet and SMS Services (Administrative Purpose) | |
| Postage | |
| Printing (Printing of Cash book, Legers, Fee-Receipts, School Magazines and Circulars etc.) | |
| Stationary Items (Administrative Purpose) | |
| Examination Expenses | |
| Books and periodicals (Library) | |
| Teaching Aids | |
| Sports and Games | |
| Staff Welfare | |
| Special Training and Workshop for the skill development of the Staff | |
| Recognition Expenses and Any other Statutory Payments | |
| Administrative Travel and Vehicle Expenses | |
| Professional Fee (Legal, Audit and Accounting) | |
| Hospitality | |
| Functions & Celebrations | |
| Advertisement for Recruitment of Teachers | |
| Total | |

| HEAD OF EXPENDITURE | Expenditure of the previous Academic Year |
|---|---|
| Account No: III : Expenses on Specific Purposes | |
| Educational Tour only for students | |
| Seminar or orientation programme for Students | |
| Group Activities (NCC/NSSS/Scouts/JPC/RS) and camps | |
| Medical Expenses | |
| Teaching through Technology (Smart Class or any other modern technology) | |
| Co-Curricular Activities connected with curriculum for all | |
| Extra-Curricular Activities for all | |
| Account No.IV : Maintenance | |
| a) Campus Maintenance | |
| Gardening | |
| Sweeping and Cleaning | |
| Sanitation | |
| Security Services | |
| Total | |
| a) Laboratory Maintenance | |
| Science Lab | |
| Language Lab | |
| Computer Lab | |
| Digital Library Lab | |
| Digital Library Lab | |
| Total | |
| c) Equipment Maintenance | |
| (AMC of Xerox, printers, CCTC Cameras, LCD Projectors any other modern equipments ...) | |
| d) Maintenance Expenditures Electrical and other Machines | |
| Electric lines | |
| Generator | |
| Fire Extinguisher | |

| HEAD OF EXPENDITURE | Expenditure of the previous Academic Year |
|---|---|
| Air-conditioner Maintenance | |
| e) Building Maintenance | |
| Color Washing | |
| Repairs and Renovation | |
| Lease or Rent (If the land owner is the 3rd party) | |
| Depreciation | |
| Total | |
| Account V : Infrastructure | |
| Purchasing of Furniture | |
| Equipment | |
| Land | |
| New Construction | |
| Modernization | |
| Any other | |
| Total | |
| Account VI : Sundry Expenses | |
| Unexpected expenditures, which cannot be included in any of the above heads. (If a fixed amount Rs.600/- or Rs.750/-) is not allowed already. | |
| Account VII: Futuristic Development | |
| School Development Fund (10%) | |
| Surplus fund (10% to 15%)<br>Panchayat 10%<br>Municipality 12%<br>Corporation 15%<br>(For Christian Catholic minority school irrespective of location 15%) | |
| Minority Catholic school – Corporate School Development Fund (10%) | |
| Infrastructure Grading (7% to 10%) Additional Income | |
| Total | |
| Grand Total | |

Note:

1. The Standard of the Format and the sequence therin has to be uniformly followed for all the schools. There cannot be selective application or modification.
2. If Infrastructure Grading, 7 % to 10% is allowed, as mentioned in Account No.VII (Futuristic Development), Accounts V on Infrastructure, will become redundant. If not allowed as mentioned in Account VII, Account V has to be considered. Both are on the same heads. Heads V and VII may be applied in the alternative.
3. While taking the total expenditure of the previous year, 10% of escalation has to be given effect to in the very first year itself.

4. The actual expenditure becomes the basis for calculating the futuristic development under 3 or 4 heads. This has to be consistently followed and cannot be changed from time to time.

We trust that the Committee would find the above format a useful guideline.

22. These Writ Petitions are disposed of with the above observations. No costs.

23. Even as we dispose of these Writ Petitions, we have found considerable force in the submission of Mr.S.Thankasivan, learned counsel for petitioners in W.P.Nos.38383 and 38821 of 2015 that the Right of Children to Free and Compulsory Education Act, 2009, informs the minimum number of teachers necessary for a particular strength of students. It does not inform the maximum number of teachers permissible. At paragraph No.90 of the decision in Lakshmi Matriculation School, a Co-ordinate Bench of this Court, has informed the adoption of the prescription of the teacher-student ratio in Right of Children to Free and Compulsory Education Act, 2009, appropriate. We are unable to agree. We are of the view that if unaided educational institutions wish to provide a better teacher-student ratio towards individualized attention and care for students, they should, subject to reasonableness which of course would be a matter for decision of the Committee, be permitted to do so. Being of such view, we consider it appropriate to cause a reference to a Three Judge Bench on the following question:

> 'Whether an unaided private educational institution would be bound to adopt the teacher-student ratio norm prescribed under the Right of Children to Free and Compulsory Education Act, 2009 and requiring it to do so would amount to a reasonable restriction as would not offend Article 19(1)(g) of the Constitution of India ?'

24. Registry is directed to place the matter before My Lord The Honourable The Chief Justice for appropriate directions.

By way of caution, we may add that the pendency of the reference above suggested would not come in the way of the Committee carrying on its functions in keeping with the decision in Lakshmi Matriculation School and our observations herein above.

-s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

gm

To
1. The Special Officer
   Private School Fee Determination Committee,
   DPI Compound,
   College Road, Chennai - 600 006.

2. The Secretary
   Department of School Education
   Fort. St. George
   Chennai 9.

Copy to
1. The Registrar Judicial
   High Court, Madras.

2. The Section officer
   Writ Section, High court, Madras.(for appropraiate directions)

3. The Section officer
   Judicial Section
   High Court, Madras.

+2 Ccs to M/s.C. Thankasivan, Advocate sr 6093.
+2 Ccs to M/s.A. Arulmary, Advocate sr 6483.



W.P.Nos.38383, 38821 and 40262 of 2015

SJ(CO)
SP(08/02/2018)