

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13929 of 2019

Mithila Minority Dental College and Hospital Ekmi Ghat,P.S. Laheriasarai,Darbhangha through its Managing Director Imbesat Shaukat,aged about 45 years (Male),S/o Acharya Shaukat Khalil,R/o Flat No.402,Firoz Place,Indrapuri Raja Bazar,P.S. Shastrinagar,Dist.Patna

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary,Health Department,Govt. of Bihar,Vikas Bhawan,Patna
2. The Dental Council of India through its Secretary Aiwan-E-Galib Marg,Temple Lane,Kotla Road,New Delhi
3. Shikshan Shulk Nirdharan Samiti,Bihar through its Member Secretary cum Principal Secretary,Health Department,Govt. of Bihar,Office at 3rd Floor,State Health Society,Sheikhpura,Patna
4. The Officer on Special Duty (OSD) (Health)-cum-Officer-in Charge,Educational Fee Fixation Committee,Bihar,For Member Secretary

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Anand Kumar Ojha, Advocate Mr. Shailesh Kumar, Advocate
For D.C.I.	:	Mr. S.D. Sanjya, Sr. Advocate Mr. Alok Kumar, Advocate Ms. Priya Gupta, Advocate
For the Respondent/s	:	Mr. Ramadhar Singh, G.P. 25

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

4 19-07-2019 Heard learned counsel for the petitioner, learned counsel for the respondent State of Bihar, as well as learned counsel for the Dental Council of India.

2. The petitioner is aggrieved by the decision of the *Shikshan Shulk Nirdharan Samiti* contained in Annexure - 8 dated 26.06.2019, whereby the Committee fixed Rs. 1 Lakh as development fee and Rs. 1.82 Lakhs as annual tuition fee.

3. Learned counsel for the petitioner institution would



submit that the claim of the institution was not properly considered by the *Shikshan Shulk Nirdharan Samiti* inasmuch as the expenditure under different heads claimed by the petitioner institution was disallowed without objective consideration of the materials placed by the institution. The reason assigned for disallowance for expenses of the petitioner institution is arbitrary and contrary to the record. Mr. Anand Ojha, learned counsel for the petitioners would submit that the respondents were required to undertake the exercise of fee fixation well in advance and not in hot haste at the time of the commencement of the academic session.

4. He further submitted that all the particulars which would indicate the justification of the expenditure under different heads was available in the form of the ledger, but unfortunately, those documents containing the justification for all the expenses was not objectively considered by the Fee Fixation Committee. The error in the decision of the Fee Fixation Committee has arisen on account of non-compliance of the directives issued by the Apex Court with regard to the fixation of the fee structure by framing Statutory Rule. This submission of the petitioner is based on the judgment of Apex Court in the case of P.A. Inamdar & Ors. Vs. State of



Maharashtra & Ors., reported in (2005) 6 SCC 537. The decision of the Apex Court was rendered in 2005, we are in 2019 and as such Mr. Ojha, learned counsel for the petitioner would submit that this continuing adhocism in the matter of fee fixation is illegal, arbitrary and promotes illegality in the decision making process.

5. Learned counsel for the Respondent State, with reference to the counter affidavit, would submit that Fee Fixation Committee has objectively decided the fee structure for the institution in question and there is no arbitrariness or illegality in the decision of the fee fixation for this institution in terms of the judgment of the Apex Court in the case of P.A. Inamdar (supra).

6. The respondents were required to frame Statutory Rules for transparency and credibility in the decision making process. But instead of doing that, the respondents are still practicing adhocism by referring the matter of fee fixation to the Fee Fixation Committee which is adhoc in nature. Mr. Ojha submits that there is lack of objectivity in the decision making process, even the materials which were available with the respondents in the form of ledger was totally discarded by the Fee Fixation Committee and it has been wrongly held out in the



decision contain in Annexure 8 that no materials were not brought to the notice of the Fee Fixation Committee and as such the claim of the petitioner institution for expenses was rejected.

7. Mr. Ojha submitted that the institution should have been given fair opportunity by the Fee Fixation Committee so that the Committee may, with full information and particulars with regard to the expenditure (one time or recurring expenditure), could have appropriately decided the expenditure and, consequently, on erroneous consideration, annual fee for the U.G. courses have been fixed vide Annexure 8 dated 26.06.2019.

8. The Officer on Special Duty is present. The Court categorically asked the Officer on Special Duty whether there is any difficulty in taking into consideration the material lying in the form of ledger or the additional material if any petitioner institution proposes to add for taking fresh decision. He is not in a position to make any positive statement.

9. Sri S.D. Sanjay, learned counsel appearing on behalf of the Dental Council of India submits that the Dental Council of India has primarily no concern with the fee structure, however, he admits that the infrastructure and other teaching facilities in any dental college requires huge expenditure to



maintain the standards prescribed by the Dental Council of India. He admits that in the given situation, fee structure fixed by the Fee Fixation Committee appears to be on lower side.

10. Learned counsel for the State, with reference to the paragraph 9 of the counter affidavit, would submit that petitioner institution was provided opportunity of hearing. The representative of the institution was heard and thereafter decision was taken.

11. The aforesaid contention of the State Counsel will not, in any manner, come in the way of passing order by this Court in this proceeding as this Court proposes to direct the respondents to take appropriate decision without quashing the decision contained in Annexure 8. From the order contained in Annexure 8, it does not appear that there was any objective consideration of the document filed on behalf of the petitioner institution in the form of ledger. Therefore, the Court does not find any substance in the objection made by the learned counsel for the State.

12. Considering the totality of the facts and circumstances, the Court, for ends of justice, direct the petitioner to provide specific information to the Fee Fixation Committee justifying the expenditure which was disallowed by



the Fee Fixation Committee, within a period of one week from today. The petitioner institution may also provide further information if relevant for the purpose of determination of fee structure of the institution. Thereafter, the Fee Fixation Committee shall provide opportunity of hearing to the petitioner institution either by hearing the Director of the institution or the representative including the Chartered Accountant of the institution and thereafter, take appropriate decision in the matter of fee fixation of the institution. The decision contained in Annexure 8 will not come in the way of the respondent taking appropriate fair decision on consideration of material if placed by the petitioner institution within the time aforesaid. A fresh decision may be taken by the Fee Fixation Committee within a period of one month.

13. With the aforesaid, the present writ application stands disposed of.

(Anil Kumar Upadhyay, J)

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