

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 76 OF 2019

1 Dr Harshawardhan Vijay Shrotri & Ors. ... Petitioners

Vs

1 Deputy Director of Education & Ors. ... Respondents

Ms. Ronita Bhattacharya for the Petitioner.

Mr. Arvind Kothari with Mr. Devashish Godbole i/b Parinam Law Associates for the Respondent Nos.2 & 4.

Mrs. S.D. Vyas, 'B' Panel Counsel for the Respondent-State.

**CORAM : S.C. DHARMADHIKARI &
M.S. KARNIK, JJ.**

WEDNESDAY, 13TH FEBRUARY, 2019

P.C. :

1 The matter is brought before this Court only to ensure that the second respondent School and its Management retains the fees for the current Academic Year (2018-2019) as approved under the Maharashtra Educational Institutions (Regulation of Fee) Act, 2011, for the next Academic Year 2019-2020. Upon perusing prayers (a), (b) and (c), we made it clear to the petitioners' counsel that it is not the business of this Court to

determine fees nor can this Court replace and substitute the mechanism under this Act and ensure determination of fees as detailed by the petitioners.

2 We invited the attention of the petitioners' counsel to the specific provision and particularly in Chapter II. Chapter II itself is titled as Prohibition of Collection of Excess Fee and Determination of Fee. Section 4 is titled as Parent-Teachers' Association.

3 The Parent-Teachers Association being formed and which is undisputedly formed in this case, an Executive Committee has to be set up. After formation of this Parent-Teachers Association, a lottery has to be conducted by the authority and the willing parents of each standard should constitute the Executive Committee. It consists of the Principal or Headmaster as its Chairperson, one from amongst the parents as Vice Chairperson, one from amongst the teachers as Secretary and two Joint Secretaries, both from amongst parents. The Members comprise of one parent and one teacher from every standard. Thereafter, there is a further stipulation with regard to

composition of this Committee and its term and then the Executive Committee is empowered to obtain the details of the proposed fee along with relevant record. The Management must forward it so that the Executive Committee can exercise the powers conferred in it by law so as to determine the fee.

4 The decision on the fees has to be rendered by the Executive Committee in terms of section 6 and particularly sub-sections (3) and (4).

5 The difficulty that is brought and projected before us is that the Executive Committee is unable to discharge its function simply because the Management is not allowing the Members of this Executive Committee to have access to the records and to inspect the Registers and related papers. The fee could not be determined unilaterally and on the basis of the Management's documents. There would be nothing then to controvert or dispute for if the Management's version is not known to the parents and teachers, it is quite likely that the Management will influence the decision on the fee.

6 Once this apprehension was expressed and seriously voiced, we called upon Mr. Kothari appearing for the Management to take instructions as to whether the Management is averse to handing over copies of all the documents and papers in possession of the Management and related to determination of fee. Whether the Management is averse to allowing an inspection of the originals if desired for.

7 Mr. Kothari took time to take instructions and we are happy that he has informed us that the Management is averse to neither. The Management will allow the inspection of original records if so desired, but the Management will, before the Executive Committee's meeting and well in advance, forward copies of the related documents and papers to the Executive Committee Members, particularly the Parent-Teachers Association.

8 With the consent of both sides, this petition is disposed of by accepting the statements of Mr. Kothari made on instructions, as undertakings to this Court. Once we have ensured that the petitioners obtain the necessary documents and

records or copies thereof, we equally expect the petitioners then to hand over the materials and documents in their possession on which they will place reliance while taking a decision on the fees. We expect both sides not to complicate the matter and allow the statute to function smoothly. The operation of the statute alone will enable parties like the petitioners to get a satisfactory determination or decision of the fee structure and, at the same time, quality education. Naturally the anxiety of the parents would be that if they are paying hefty fees and moneys and charges over and above the term fees for several activities in the school, then, the fees should not be exorbitant or in the nature of a capitation fee. It should not be in excess of what is determined and collectively. However, they must also realise that they are part and parcel as parents of this Executive Committee and it is not expected that every representative on this Committee is an adversary of each other. If they stay united, we do not think that any Management can influence the decision of such a Committee. All that the Management is expected to do is to submit the details of the proposed fee and we are sure that beyond doing this, the Management will not interfere, much less try and influence the decision of this Committee. We have ensured this and in the

presence of the representatives of the petitioners and the Management and their counsel.

9 It is agreed that the documents would be supplied thirty days' in advance to the petitioners and in the event they desire to take inspection of any record, they can, by prior appointment, do so as well. However, the originals shall not be taken out from the School premises in any manner. That will not be done by both the Management as also the petitioners.

10 The Executive Committee shall meet on 29th March, 2019 and the documents shall be supplied on or before 27th February, 2019 by both sides to each other.

11 The Writ Petition is disposed of by clarifying that we have not expressed any opinion on the fee structure or the quantum.

M.S. KARNIK, J.

S.C. DHARMADHIKARI, J.