

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**REVP No. 120 of 2020**

Siddhant Dangi (Minor) S/o Shri Saurabh Dangi, Aged About 5 Years R/o Plot No. 674, 675, R-11, Rama Valley, Bilaspur, Chhattisgarh.

Through Surya Kawalkar Dangi (Mother), A/o 36 Years, W/o Shri Saurabh Dangi, R/o Plot No. 674, 675, R-11, Rama Valley, Bilaspur Chhattisgarh
---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Department Of School Education, Mantralaya, Mahanadi Bhawan, Naya Raipur, Atal Nagar, Raipur Chhattisgarh.,
2. Director (Public Instructions), Directorate Of Public Instructions, Mantralaya, Indravati Bhawan, Naya Raipur, Atal Nagar, Raipur Chhattisgarh.
3. District Education Officer, Bilaspur Chhattisgarh
4. Central Board Of Secondary Education, Shiksha Kendra 2, Community Centre, Preet Vihar, Vikas Marg, Delhi 110092. Through Its Joint Secretary.
5. Bilaspur Private School Management Association,
 Society Registered Under The Societies Registration Act 1973, Bearing Reg No. 1222201936676, Having Office At Brilliant Public School, Mission Hospital Road, Bilaspur, District Bilaspur Chhattisgarh. Through Its President Praveen Agrawal

---- Respondents

For Petitioner	:	Ms. Surya Kawalkar Dangi, Advocate
For State	:	Mr. Mateen Siddiqui, Deputy A.G.
For Respondent No.5	:	Mr. Ashish Shrivastava, Advocate
For Intervenor	:	Mr. Sudeep Johri, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****28/08/2020**

1. The Review petition has been seeking review of the order passed by this Court in WPC No. 1040/2020, decided by this Court on 09.07.2020.
2. The main ground seeking review of the order was that the Court while

deciding the said order has not properly appreciated the expression tuition fees and that the tuition fees collected at this juncture should be only to the extent that would be required for the establishment to sustain themselves and it cannot be the entire tuition fees which they have been charging in the previous years which was inclusive of other components also and which also has a great element of profit attached which the school authorities should not charge and the tuition fees should be proportionately reduced while collecting fees.

3. The further ground of challenge in the review petition was that the judgments rendered by the Panjab and Haryana High Court, the Kerela High Court, the Uttarakhand High Court and so also the Delhi High Court have not been properly appreciated as there were other factors also which have been dealt with in those judgments and if those grounds would have been addressed upon and considered, perhaps this Court would not have passed such an order or atleast it would have diluted the order to the extent that the tuition fees to be charged would have been ordered to be commensurate only to that extent with which the establishment could have sustained themselves.
4. It is the further contention of the applicant that the original petition was heard and decided without making any of the students or the parents of the students as a necessary party and therefore the petitioner herein could not get an opportunity to oppose the petition at that point of time.
5. Lastly, it was contended that the school authorities are also charging tuition fees even from students admitted in the Kinder Garden,

wherein the school authorities are not taking any online classes to these students of Kinder Garden. Therefore the tuition fees should not be collected to the extent that it was being collected in the previous academic session.

6. At the outset, this Court is of the firm view that the review petition is not sustainable for more than one reason, firstly the original writ petition was filed by the society challenging the order Annexure P/1 and P/2 with the writ petition dated 01.04.2020 and 22.04.2020, which were issued by the State Government. Therefore the challenge was to an order of the State Government, wherein the State Government had restrained the private schools from collecting the school fees. The challenge to an order of the State Government by the affected person does not require the students of that school to be made or the parents of the students to be made as a necessary party for challenging the veracity of an order passed by the State Government. Moreover, the said was not a public interest litigation which was being heard by this Bench. It was a petition by the petitioner challenging the order by the respondents and therefore it was only the petitioner and the State Government who were the necessary party, thus this ground of the applicant for seeking review is not acceptable. Needless to mention that there were a few intervenors on behalf of the students and the parents, who had opposed the original writ petition during the stage of final hearing and whose submissions were taken note of by this Court while deciding the petition.
7. Since this Court while deciding the original writ petition had only decided the veracity of the order Annexure P/1 & P/2 dated

01.04.2020 and 22.04.2020, the grounds raised or grounds taken by the applicant seeking review of the order would not be available for review of the order passed by this Court.

8. It is well settled proposition of law that under the writ jurisdiction, the Court cannot convert the review petition for the entire rehearing of the writ petition altogether afresh. Even in case if this Court has not properly appreciated the judgments quoted by this Court in its order, the same cannot be a ground for review. Similarly, even in the case of this Court passing an order without the necessary parties as respondent in the writ petition, it again would not be a ground for review of the order decided on merits. Review is always on the limited ground of an error apparent on the face of the record and an error which is glaringly visible on the face of it.
9. In the garb of the review jurisdiction, the applicant cannot get an opportunity to argue the entire case afresh on merits. It is also trite at this juncture to mention that in case if the grounds raised by the applicant are to be considered and the review petition is to be entertained, it would amount to this Court converting the review petition into an appeal and deciding veracity of the order passed by this Court altogether afresh, which again would not be permissible under the scope of review jurisdiction.
10. As regards the intervenors are concerned, this Court again is of the firm view that an intervention at the review stage is not permissible under law. Intervenors, if at all, if they were aggrieved of the order of this Court, had the option of either challenging the order or filing a review petition themselves. Therefore, in a review petition there cannot

be an intervention nor does an intervenor has a right to say in a review petition. The intervention application therefore stands rejected.

11. Given the said facts, this Court is of the firm view that no grounds for review has been made out. The review petition therefore deserves to be and is accordingly rejected.

Sd/-
(P. Sam Koshy)
Judge

Ved