

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC No. 2047 of 2020**

1. Soumy Diwan (Minor) (Through Natural Guardian Sona Diwan), Aged 14 Years, R/o House No. 394, Beside Football House, Sunder Nagar, Raipur, Chhattisgarh
2. Rudrakash Sawarnkar (Minor) (Through Natural Guardian Pawan Sawarnkar), Aged 09 Years, R/o Priyadarshani Colony, Raipur, Chhattisgarh
3. Diya Jain (Minor) (Through Natural Guardian Dharmendra Jain), Aged 16 Years, R/o New Rajendra Nagar, Raipur, Chhattisgarh
4. Mahika Pawar (Minor) Through Her Natural Guardian Vikram Pawar, Aged - 14 Years, R/o D-450, Tagore Nagar, Raipur.
5. Mouli Baradia (Minor) (Through Her Natural Guardian Pankaj Baradia), Aged 13 Years, R/o D-52, Fun Fiesta Ground, Shailendra Nagar, Raipur, Chhattisgarh
6. Dhvani Khiyam (Minor) (Through Her Natural Guarding Mahi Amit Khiyam), Aged 13 Yrs, R/o 700, Laxmi Nagar, Tikrapara, Raipur, Chhattisgarh
7. Friday Darira (Minor) Through His Natural Guardian Girish Darira, Aged 16 Years, R/o 700, Laxmi Nagar, Behind Golden Marble, Tikrapara, Raipur, Chhattisgarh
8. Navadha Seth (Minor) Through Her Natural Guardian Shishir Seth, Aged 13 Years, R/o B-601, City Of Dreams, Off Vidhan-Sabha Road, Kachna, Raipur, Chhattisgarh
9. Vinisha Shihani (Minor) (Through Her Natural Guardian T- Heera Shihani) Aged 13 Years, R/o Priyadarshini Colony, Raipur, Chhattisgarh.
10. Svraksha Jiwan (Minor) (Through His Natural Guardian Ravi Jiwan) Aged 16 Years R/o S1, Rajiv Nagar, Raipur, Chhattisgarh
11. Vanshika Premchandani (Minor) (Through Her Natural Guardian Pradeep Pranchandri), Aged- 16 Years, R/o Avanti Vihar, , Raipur, Chhattisgarh

12. Raghav Verma (Minor) (Through His Natural Guardian Ritesh Verma), Aged- 15 Years, R/o Parag-Street, Fafadih, Raipur, Chhattisgarh
13. Nihal Singh (Minor) (Through His Natural Guardian Gurdeep Singh, Aged 14 Years, R/o Srinagar, Raipur, Chhattisgarh)
14. Yash Kedia (Minor) (Through His Natural Guardian Ravi Kedia), Aged 15 Years, R/o Singapore City, Mohaba Bazaar, Raipur, Chhattisgarh
15. Siddharth Upadhyay (Minor) (Through His Natural Guardian Pramod Upadhyay), Aged 13 Years, R/o D46, Rohinipuram, Opp. Alpha-Palace, Raipur, Chhattisgarh
16. Raunak Jain (Minor) (Through His Natural Guardian Sanjay Jain), Aged 16 Years R/o Jeewan Apartment, Shanker Nagar, Raipur, Chhattisgarh
17. Anusha Panda (Minor) (Through Her Natural Guardian Debasis Panda), Aged 16 Years, R/o B-63, Capital City- Phase 3, Saddu, Raipur- 492014
18. Aadya Verma (Minor) (Through Her Natural Guardian Namrata Verma), Aged 07 Years, R/o Maruti Residency, Amlidih, Raipur, Chhattisgarh
19. Sambhav Upadhyay (Minor) (Through His Natural Guardian Saurabh Upadhyay), Aged 14 Years, R/o 608, Sundar Nagar, Raipur, Chhattisgarh
20. Arnav Sharma (Minor) (Through His Natural Guardian Arvind Sharma, Aged 14 Years, R/o 119, Om Society, Sundar Nagar, Raipur, Chhattisgarh)
21. Mansvi Somani (Minor) (Through Her Natural Guardian Anand Somani), Aged 16 Years R/o 101/12, Ashoka Ratna, Khamardih, Raipur, Chhattisgarh
22. Aarchi Goyal (Minor) (Through Her Natural Guardian) Sanjay Agrawal, Aged 13 Years, R/o K-3, Dubey Colony, Mowa Raipur, Chhattisgarh
23. Manikya Mishra (Minor) (Through His Natural Guardian Nivedita Mishra), Aged 13 Years, R/o G-2, Sri- Ram Nagar, Raipur, Chhattisgarh

---- **Petitioners**

Versus

1. State Of Chhattisgarh Through- Secretary, Department Of School Education, Mantralya, Mahanadhi Bhawan, Naya Raipur, Atal Nagar, Raipur, Chhattisgarh
2. Director (Public Instructions) Directorate Of Public Instructions, Mantralay, Indravati Bhawan, Naya Raipur, Atal Nagar, Raipur, Chhattisgarh.
3. District Education Officer Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
4. Central Board Of Secondary Education Shiksha Kendra 2, Community Centre, Preet Vihar, Vikas Marg, Delhi 110092., District : New Delhi, Delhi
5. Bhavans R.K. Sarda Vidya Mandir Through Its Principal, Saddu Baronda Road, Raipur Chhattisgarh., District : Raipur, Chhattisgarh

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For Petitioner	:	Mr. Kshitij Sharma, Advocate
For State	:	Mr. Mateen Siddiqui, Dy. AG

Hon'ble Shri Justice P. Sam Koshy
Order on Board

02/09/2020

1. The present writ petition has been filed seeking for the following reliefs:-
 - “(10.1) To issue appropriate writ/direction/order calling upon the entire record from the respondent No.3 & respondent No.5 pertaining to the fees structure for respondent school.
 - (10.2) To issue appropriate writ/direction/order directing the respondent No.5 to produce its approved/submitted fees

structure and also the 'statement of income & expenditure' pertaining to its institution.

(10.3) To issue appropriate writ/direction/order quashing the impugned circular dated 31.07.2020(Annexure P/01), consequently the respondent No.1 & 3 be specifically directed to enquire, examine and fix the tuition fees for the respondent No.5 for the session 2020-21 in the light of the circulars issued by the State.

(10.4) To issue writ/direction/order of appropriate nature, quashing the impugned notice dated 28.07.2020(Annexure P-02, Colly) and consequently direct the respondent No.5 publish and charge tuition fees (within the strict sense) exclusive of other charges including development fees and annual charges etc.

(10.5) Any other relief which this Hon'ble Court may deem fit may also be passed in the obtaining factual matrix.”

2. Grievance of the petitioner seems to be more in respect of the action on the part of the respondent No.5 in consolidating the fees that is being collected under the heads of Tuition fees which is inclusive of Annual, Robotics and development fees.
3. The petition as of now has been filed in the context of or pursuant to the judgment rendered by this Court in WPC 1010/2020. In the said writ petition this Court had allowed the writ petition filed by the society of the private school operators permitting them to collect the tuition

fees in the present academic session i.e. 2020-21 and also collecting the arrears of tuition fees of the previous academic session 2019-2020.

4. Referring to the judgment passed by this Court in WPC 1040/2020 decided on 09.07.2020, the counsel for the petitioners argued that since the tuition fees in the instant case is inclusive of Development, robotic and Annual Charges and this Court in WPC 1040/2020 had permitted the private schools to collect only the tuition fees therefore the school authorities should bifurcate the development, Robotic and annual charges from the consolidated fees that is being charged from the petitioners herein and should collect only that much of fees which comes within the component of tuition fees after deducting the annual charges, robotic charges and development charges.
5. Perusal of the documents which have been enclosed along with the writ petition would reflect that in the instant case the school authorities had been earlier charging the student tuition fees, development charges, robotic charges and annual charges separately. The said system prevailed uptill 2014-15 when the fees under the different heads like computer, amalgamated fees, evaluation fees, Coat fees etc. all got merged with the annual charge. Subsequently, in the academic session 2017-18 again the development charges which was being charged annually till then also got merged along with annual charges with the tuition fees, thereby

the schools started charging one consolidated tuition fees from the students and this system continues even today.

6. According to the petitioners this merging of the development, robotic and the annual charges with the tuition fees does not have the approval of the State Administration and the State Administration have already issued circulars and guidelines in this regard which the school authorities are supposed to follow and abide but which has not been done.
7. The fact which needs appreciation at this juncture is that this system which was in force since 2017 onwards was till now not opposed by the petitioners at any point of time and the present writ petition has been filed only pursuant to the order passed by this Court in WPC 1040/2020 which was disposed of on 09.07.2020. In the said writ petition this Court had in very categorical terms held that schools associated to the petitioners therein would be permitted to charge only the tuition fees from the students and not any other fees. It was also emphatically mentioned by this Court that schools would also not be permitted to enhance or revise the tuition fees in the current academic session i.e. for the year 2020-21 and fee structure would remain the same that was in force in the year 2019-20.
8. It is here that petitioners now are aggrieved of, stating that since the tuition fees that is being collected by the respondent No.5 in the instant writ petition is inclusive of development, robotic and annual charges at least those three components are to be deducted while

charging the tuition fees from the petitioners at least for this academic session on account of effect of the COVID-19 pandemic.

9. This Court at this juncture in exercise of its extra ordinary writ jurisdiction would not like to delve into the aspect as to what would be the reasonable tuition fees which has to be charged by the respondent No.5 school because determining the tuition fees would not be within the domain of this Court. It should be left upon the experts in the field. Moreover, if we take into consideration the facts of the present case, fees that is being charged by the respondent No.5 as tuition fees is the same amount what they had charged in the previous academic session. None of the petitioners were aggrieved of the tuition fees that was charged in the previous years they wholeheartedly paid the tuition fees and undertook the education and if the school authorities now are charging the same tuition fees, this Court does not find the same to be in contravention to the orders passed by this Court in WPC 1040/2020.

10. As regards, the issue whether the consolidated tuition fees charged by the respondent No.5 is proper, legal and justified or not, this Court is of the opinion that subsequent to the filing of the present writ petition, the State Government has now recently passed the Education Bill itself, particularly dealing upon the fees which should be charged from the students by the private non-aided educational institutions and there are certain mechanism framed by the State

Government to reach to the conclusion as to which school shall be charging what fees.

11. In view of the subsequent developments, this Court again would refrain from entering into the arena and leave it for the State Authorities for taking appropriate steps at the earliest ensuring that the object and the intention behind framing of the Bill which is primarily to ensure regulating the collection of fees by the private unaided institutions is implemented in its letter and spirit.

12. Needless to mention, that disposal of the present writ petition would not come in the way of the petitioners in approaching the State Authorities for ventilating their grievances and seeking for appropriate redressal in that regard.

13. With the aforesaid observations, the writ petition stands disposed of.

**Sd/-
(P. Sam Koshy)
Judge**