

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-10305 of 2020 (O&M)

DATE OF DECISION : 04.09.2020

Pathways School Gurugram Parents Association

...Petitioner

Versus

State of Haryana & Ors.

...Respondents

With

CWP-10708 of 2020 (O&M)

Pathways Aravali Parents Association & Anr.

...Petitioners

Versus

State of Haryana & Ors.

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr.D.S.Patwalia, Senior Advocate with
Mr.Shrey Goyal, Advocate,
Mr.Suhail Sharma, Advocate
For the petitioner in CWP No. 10305 of 2020

Mr. Vikas Bahl, Senior Advocate with
Ms. Aakritee Raj, Advocate and
Mr. Nikhil Sabharwal, Advocate
for the petitioner in CWP No.10708-2020.

Mrs. Mamta Talwar, DAG Haryana
for respondent No.1 to 4.

Mr. Puneet Bali, Senior Advocate with
Mr.Ashish Chopra, Advocate,
Mr.Sahil Sharma, Advocate,
Mr. Aashish Gupta, Advocate and
Mr. Paramdeep Singh, Advocate
for respondents No.5 & 6.
(Presence marked through video conference)

ARUN MONGA, J. (ORAL)

1. Aforesaid two petitions were earlier also argued by learned Senior Counsels, appearing for their respective clients, rather cantankerously, on couple of occasions before this Court. In the end, it always is a pleasure to note, that all counsels are finally *ad idem* on *lis* in hand. Mutual consensus arrived is, that judgment rendered by learned Single Judge in a similar matter related to State of Punjab, vide CWP No. 7409 of 2020 titled as “*Independent Schools’ Association and others Vs. State of Punjab & others*” is equally applicable to the schools in Haryana as well.

2. The issue involved herein, though simple otherwise, but was unnecessarily made to look troublesome, with respective arguments/counter arguments. Entire debate has already been put to rest and can be resolved merely by implementation of the judgment, *ibid*, with which, respectfully, I am in full agreement with. For ready reference, directions issued in the said judgment, authored by my learned Sister Nirmaljit Kaur, J. are as under:-

“(a) The schools are permitted to collect their admission fee, henceforth.

(b) All schools irrespective whether they offered online classes during the lock-down period or not, are entitled to collect the tuition fee. However, they will continue to endeavour and impart online/ distance learning so that education is not adversely impacted due to the present or future lockdowns imposed due to COVID-19.

(c) The school management of each schools shall work out their actual expenditure incurred under the annual charges for the period the school remained closed and recover only such genuine expenditure incurred by them including actual transport charges and actual building charges but shall not recover any charge for this period for any activity or facility towards which no

expenditure was incurred. However, the annual charges for the remaining period shall be recovered as already fixed by the school;

(d) The schools shall restrain themselves for the reasons, as mentioned above, from increasing the fee for the year 2020-21 and adopt the same fee structure as of 2019- 20.

(e) Any parent not able to pay the school fee in the above terms may file their application along with necessary proof about their financial status, which shall be looked into by the school-authority and, after looking into it sympathetically, give concession or exempt the entire fee, as the case may be. In case the parent is still aggrieved, in any manner, with an adverse decision by the school on his application, he may approach the Regulatory Body, so constituted under Section 7 of the Punjab Regulation of fee of Un-aided Educational Institutions Act, 2016. No parent shall misuse the concession by laying a false claim.

(f) Section 7 of the Punjab Regulation of fee of Un-aided Educational Institutions Act, 2016 is already in place for looking into the complaints of the parents or guardians with regard to charging of any excessive fee or to do any other activity with the motive to give financial benefit or profit. The parents are at liberty to take recourse to the same and, therefore, no specific direction is required to be given by this Court separately;

(g) In case any school is facing a financial crunch for not having charged the increased fee for the year 2020-21, may move a representation to the District Education Officer along with its proof of the same, who shall look into it and pass appropriate orders within three weeks of the receipt of such an application. However, this may be exercised only in a very hard case where the school is facing financial crunch and has no reserved resources to meet the expenses.

(h) It is clarified that there is no modification in the direction Nos.(ii), (iii) and (v) of the impugned order dated 14.05.2020.

(i) There is also no modification in the direction No.(iv) of the order dated 14.05.2020 that no child will be deprived of attending the schools and online classes. However, the same is subject to the parent of such a child moving an application in terms of direction (e) above of this order and final decision on the said application.”

3. A perusal, *supra*, leaves no manner of doubt that controversy has already been culled down by learned Single Judge. In fact, pursuant thereto, a Coordinate bench of this court has already applied the aforesaid SB judgment qua state of Haryana as well, in CWP No. 7574 of 2020. My learned Brother Ramendra Jain, J (as he then was), disposed of said CWP, instituted by an association of Haryana Schools on 27.07.2020, in the following terms :-

“Case has been taken up for hearing through video conferencing. This petition, having similar dispute, is being disposed of in terms of order dated 30.06.2020 passed in CWP-7409-2020 titled as Independent Schools’ Association Chandigarh(Regd.) & others vs. State of Punjab and others.”

4. Even though Single Bench judgement in Independent Schools, *ibid*, is under challenge by way of an intra Court appeal, vide LPA No.409 of 2020 and other connected appeals. However, the Appellate Bench, in seisen of the appeals, has also been pleased to pass interim order/directions dated 20.07.2020 in terms of ratio rendered in SB judgment. It would be apposite to reproduce the relevant of said interim order dated 20.07.2020 as below:-

“Having heard learned Advocate General, Punjab and learned counsel appearing for the School Management as also for the parents on the interim relief, we rather consider it expedient to observe that until further orders, all the parties shall adhere to the arrangements set out in the impugned judgment. Additionally, in the given circumstances, we emphasize that all the students would

remit their school fee in sync with the directions issued by the learned Single Judge. However, the names of those students, who have either sought or apply for concession or waiver of school fee, their names shall not be struck off from the roles till their application(s) are decided by the School Management or by the Regulatory Body constituted under section 7 of the Punjab Regulation of Fee of Unaided Educational Institutions Act, 2016, as the case may be. We are sanguine that the School authorities or the Regulatory Body in seisin of any such application(s), shall make every endeavour to decide the same as expeditiously as possible”

5. Accordingly, keeping in view the aforesaid, contesting parties herein i.e. parents of students on the one hand and School Management on the other, and in a sense, they actually are co-parceners in common cause of imparting education to the wards studying in schools, would rather not be adversarial in the interest of children. Suffice in the end to note, at the cost of repetition though, that since applicability of the learned Single Judge judgment, has been relied by all learned counsels, and therefore, all parties herein shall remain bound in terms of directions passed therein, until further orders, depending on the final outcome of the above mentioned LPA.

6. In the interregnum, the grey area, as vehemently agitated by learned Senior counsels, appearing for the Parents’ Associations, qua the quantum of actual monthly payments per SB judgment, the same shall be determined by respondent No.3/Director, School Education, State of Haryana. Respondent No.3 is requested to take a decision on the monthly quantum of fee and expenses, as expeditiously as possible, given the urgency involved. He is expected to go through the petitions filed by the Parents’ Association and the stand taken by the School Management in reply thereto, before taking a decision on the monthly payment to be made by the parents.

7. Interim order stands vacated.
8. Writ petition stands disposed of in above terms.
9. Since the main writ petition has been disposed of, pending applications, if any, also stand disposed of.

September 4, 2020
Jiten

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No