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HIGH COURT OF CHHATTISGARH, BILASPUR**Judgment Reserved on: 05/03/2021****Judgment Delivered on : 10/03/2021****WP (PIL) No. 100 of 2020**

Durg D.P.S Palak Association 2, Commercial Complex, Nehru Nagar, Bhilai, District Durg Chhattisgarh Through Its President, Mr. Bishakh Basu, Aged About 49, Years, S/o Late B. S. Basu, R/o Flat No. 116, Shikhar Apartments, Junwani Road, Bhilai, District Durg Chhattisgarh

---- Petitioner**Versus**

1. State of Chhattisgarh Through The Secretary, Department Of School Education, Mantralaya, Mahanadi Bhawan, Atal Nagar Nawa Raipur District Raipur Chhattisgarh
2. Director Public Instructions Directorate Of Public Instructions, Mantralaya, Mahanadi Bhawan, Atal Nagar Nawa Raipur District Raipur Chhattisgarh
3. Chhattisgarh Private School Management Association Office Address Jhabak Bada, Kamasipara, Sadar Bazar Ward Raipur Chhattisgarh
4. Delhi Public School (D. P. S.) Junwani Road, Nehru Nagar, Durg Bhilai Chhattisgarh

---- Respondents**WA No. 357 of 2020**

{Arising out of Order dated 09.07.2020 passed in WPC No. 1040 of 2020 by the learned Single Judge}

1. Harsh Sheth, S/o Kanubhai J. Sheth, Aged About 36 Years R/o Ganga Nagar Sector - 2, Near Shiv Shankar Provision Store, Mangla Road, Bilaspur Chhattisgarh.
2. Varsha Kesharwani, W/o Pawan Kesharwani, Aged About 34 Years R/o Green Garden Colony, Mungeli Road, Bilaspur Chhattisgarh.
3. Suresh Kumar Pal, S/o B.R. Pal, Aged About 43 Years R/o R-10, Phase - III, Rama Life City, Sakri, Bilaspur Chhattisgarh.
4. Payal Lath, W/o Shabd P Lath, Aged About 38 Years R/o J.P. Heights, Shubham Vihar, Usalapur, Bilaspur Chhattisgarh.
5. Dimple Dewangan, W/o Ramesh Dewangan, Aged About 32 Years R/o Shanti Lodge Marg, Juna Bilaspur, Bilaspur Chhattisgarh.
6. Priyanka Shrivastava, W/o Malay Shrivastava, Aged About 33 Years R/o E-127, Rama Life City, Sakri, Bilaspur Chhattisgarh.
7. Navreen Ahmed, Wd/o Late Aadil Ahmed, Aged About 30 Years R/o House No. 226/ C, Phase 1, Rama Life City, Sakri, Bilaspur Chhattisgarh.
8. Sushama Tiwari, W/o Nitesh Tiwari, Aged About 39 Years R/o Vidyanagar, Bilaspur Chhattisgarh.
9. Kiran Sannad, W/o Abhishek Sannad, Aged About 32 Years R/o Narmada Nagar, Bilaspur Chhattisgarh.
10. Vinita Soni, W/o Sanjay Soni, Aged About 41 Years R/o A L - 183, Asma City, Sakri, Bilaspur Chhattisgarh.

---- Appellants

Versus

1. State of Chhattisgarh Through The 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 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**WA No. 380 of 2020**

{Arising out of Order dated 09.07.2020 passed in WPC No. 1040 of 2020 by the learned Single Judge}

1. Anil Pathak S/o Badri Nath Pathak Aged About 36 Years R/o Jorapara Sarkanda Thasil And District Bilaspur Chhattisgarh
2. Pawan Tamrakar S/o Shri Mani Ram Tamrakar Aged About 40 Years R/o Triveni Nagar, Jabdapara, Tahsil And District Bilaspur Chhattisgarh

---- Appellants**Versus**

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

---- Respondents**WA No. 381 of 2020**

{Arising out of Order dated 09.07.2020 passed in WPC No. 1040 of 2020 by the learned Single Judge}

1. Abhijit Sarkar S/o Sh. A. Sarkar Aged About 48 Years R/o L.I.C. 120, A Din Dayal Awas Bahatarai Bilaspur, Chhattisgarh
2. Abhishek Verma S/o Late Shri S.K. Verma Aged About 43 Years R/o Plot No. 184, Rajkishor Nagar, Bilaspur, Chhattisgarh

---- Appellants**Versus**

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

---- Respondents

WA No. 382 of 2020

{Arising out of Order dated 09.07.2020 passed in WPC No. 1040 of 2020 by the learned Single Judge}

1. Shiv Pradhan S/o Bhagiram Pradhan Aged About 40 Years R/o Raza Masjid Bharti Nagar Thasil And District Bilaspur Chhattisgarh
2. Mirza Shams Tabrez S/o Shri Mirza Shamim Beag Aged About 48 Years R/o Saba Manjil Talapara Bilaspur Chhattisgarh.

---- Appellants

Versus

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

---- Respondents

WA No. 383 of 2020

{Arising out of Order dated 09.07.2020 passed in WPC No. 1040 of 2020 by the learned Single Judge}

- Manish Kumar Agrawal S/o Late Shri Shankar Lal Agrawal Aged About 50 Years R/o Subhas Nagar Gond Para Bilaspur Chhattisgarh.

---- Appellant

Versus

1. Bilaspur Private School Management Association Society Registered Under The Societies Registration Act , Bearing Reg. No. 1222201936676, Having Office At Brilliant Public School Mission Hospital Road, Bilaspur District Bilaspur , Chhattisgarh , Through Its President Praveen Agrawal
2. State Of Chhattisgarh Through The Secretary, Department of School Education , Mantralaya , Mahanadi Bhawan, Naya Raipur, Atal Nagar Raipur Chhattisgarh.

3. Directorate (Public Instructions) Directorate Of Public Instructions, Mantralaya , Indravati Bhawan, Naya Raipur, Atal Nagar Raipur Chhattisgarh.
4. District Education Officer Bilaspur Chhattisgarh.
5. Central Board of Secondary Education Shiksha Kendra 2 Community Centre, Preet Vihar, Vikas Marg, Delhi 110092, Through Its Joint Secretary.

---- Respondents

WA No. 384 of 2020

{Arising out of Order dated 09.07.2020 passed in WPC No. 1040 of 2020 by the learned Single Judge}

- Hridyesh Logani S/o Shri Jogendar Lal Logani Aged About 49 Years R/o Subhas Nagar, Gond Para, Bilaspur (Chhattisgarh)

---- Appellant

Versus

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

---- Respondent

WA No. 389 of 2020

{Arising out of Order dated 09.07.2020 passed in WPC No. 1040 of 2020 by the learned Single Judge}

1. Yogendra Kumar Ojha S/o Shri Arun Kumar Ojha Aged About 43 Years R/o Ojha Niwas Azad Nagar, Bilaspur Chhattisgarh
2. Sanjay Tiwari S/o Baleshwar Tiwari Aged About 53 Years R/o Khuti Para Mopka, Bilaspur Chhattisgarh

---- Appellant

Versus

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

---- Respondents

WA No. 390 of 2020

{Arising out of Order dated 09.07.2020 passed in WPC No. 1040 of 2020 by the learned Single Judge}

1. Manoj Kumar Gupta S/o Late Shri Shiv Prasad Gupta Aged About 38 Years R/o Samta Vihar Colony, Tikrapara, Bilaspur Chhattisgarh

---- Appellant

Versus

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

---- Respondents

WA No. 416 of 2020

{Arising out of Order dated 09.07.2020 passed in WPC No. 1040 of 2020 by the learned Single Judge}

- Siddhant Dangi (Minor)(Peti. In Person) Aged About 5 Years R/o Plot No. 674, 675, R-11, Rama Valley, Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh

---- Appellant

Versus

1. State of Chhattisgarh Through Secretary, Department Of School Education, Mahanadi Bhawan, Mantralaya New Raipur, Atal Nagar, District 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

WA No. 15 of 2021

{Arising out of Order dated 02.09.2020 passed in WPC No. 2047 of 2020 by the learned Single Judge}

1. Soumy Diwan (Minor) Aged About 14 Years (Through Natural Guardian Sona Diwan), R/o House No. 394, Besides Football House, Sunder Nagar, Raipur Chhattisgarh

2. Rudraksh Sawarnkar (Minor) Aged About 9 Years (Through his Natural Guardian Pawan Sawarnkar), R/o Priyadarshani Colony, Raipur Chhattisgarh
3. Diya Jain (Minor) Aged About 16 Years (Through Natural Guardian Dharmendra Jain), R/o New Rajendra Nagar, Raipur, Chhattisgarh
4. Mahika Pawar (Minor) Aged About 14 Years (Through Natural Guardian Vikram Pawar), R/o D-450, Tagore Nagar, Raipur.
5. Mouli Baradia (Minor) Aged About 13 Years (Through Natural Guardian Pankaj Baradia), R/o D-52, Fun Fiesta Ground, Shailendra Nagar, Raipur, Chhattisgarh
6. Dhvani Khiyam (Minor) Aged About 13 Years (Through Natural Guardian Mahi Amit Khiyam) R/o 700, Laxmi Nagar, Tikrapara, Raipur, Chhattisgarh
7. Friday Darira (Minor) Aged About 16 Years (Through his Natural Guardian Girish Darira)r/o 700, Laxmi Nagar, Behind Golden Marble, Tikrapara, Raipur, Chhattisgarh
8. Navadha Seth (Minor) Aged About 13 Years (Through her Natural Guardian Shishir Seth) R/o B-601, City of Dreams, Off Vidhan-Sabha Road, Kachna, Raipur, Chhattisgarh
9. Vinisha Shihani (Minor) Aged About 13 Years (Through Natural Guardian Heera Shihani) R/o Priyadarshini Colony, Raipur, Chhattisgarh.
10. Svraksha Jiwan (Minor) Aged About 16 Years (Through his Natural Guardian Ravi Jiwan) R/o S1, Rajiv Nagar, Raipur, Chhattisgarh
11. Vanshika Premchandani (Minor) Aged About 16 Years (Through his Natural Guardian Predeep Pranchandri) R/o Avanti Vihar, , Raipur, Chhattisgarh
12. Raghav Verma (Minor) Aged About 15 Years (Through his Natural Guardian Ritesh Verma) R/o Parag-Street, Fafadih, Raipur, Chhattisgarh
13. Nihal Singh (Minor) Aged About 14 Years (Through his Natural Guardian Gurdeep Singh) R/o Srinagar, Raipur, Chhattisgarh)
14. Yash Kedia (Minor) Aged About 15 Years (Through his Natural Guardian Ravi Kedia) R/o Singapore City, Mohaba Bazaar, Raipur, Chhattisgarh
15. Siddharth Upadhyay (Minor) Aged About 13 Years (Through Natural Guardian Pramod Upadhyay) R/o D-46, Rohinipuram, Opp. Alpha-Palace, Raipur, Chhattisgarh
16. Raunak Jain (Minor) Aged About 16 Years (Through his Natural Guardian Prabha Jain) R/o Jeewan Apartment, Shanker Nagar, Raipur, Chhattisgarh
17. Anusha Panda (Minor) Aged About 16 Years (Through his Natural Guardian Debasis Panda) R/o B-63, Capital City- Phase 3, Saddu, Raipur- 492014
18. Aadya Verma (Minor) Aged About 7 Years (Through her Natural Guardian Namrata Verma) R/o Maruti Residency, Amlidih, Raipur, Chhattisgarh
19. Sambhav Upadhyay (Minor) Aged About 14 Years (Through Natural Guardian Saurabh Upadhyay) R/o 608, Sundar Nagar, Raipur, Chhattisgarh
20. Arnav Sharma (Minor) Aged About 14 Years (Through his Natural Guardian Arvind Sharma) R/o 119, Om Society, Sundar Nagar, Raipur, Chhattisgarh)
21. Mansvi Somani (Minor) Aged About 16 Years (Through her Natural Guardian Anand Somani)r/o 101/12, Ashoka Ratna, Khamardih, Raipur, Chhattisgarh
22. Aarchi Goyal (Minor) Aged About 13 Years (Through Natural Guardian) Sanjay Agrawal, R/o K-3, Dubey Colony, Mowa Raipur, Chhattisgarh
23. Manikya Mishra (Minor) Aged About 13 Years (Through His Natural Guardian Nivedita Mishra),r/o G-2, Sri- Ram Nagar, Raipur, Chhattisgarh

---- Appellants

Versus

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

---- Respondents

For Appellants	Shri Kishan Lal Sahu and Shri Abhijeet Sarkar, Advocates in WA-380, 381, 382, 383, 384, 389 and 390/2020. Shri Malay Shrivastava, Advocate in WA-357/2020. Shri Kshitij Sharma, Advocate in WA-15/2021. Shri Saurabh Dangi, In Person in WA-416/2020.
For Writ Petitioner	: Shri Sumesh Bajaj, Advocate in WPPIL-100/2020.
For Respondent/State	: Shri S.C.Verma, Advocate General, Shri Sudeep Agrawal, Deputy Advocate General and Shri Chandresh Shrivastava, Deputy Advocate General
For Respondent/Bilaspur Private School Management Association Society.	Shri Ashish Shrivastava, Advocate.
For Respondent-CBSE.	: Shri T.K.Tiwari, Advocate.
For Respondent/ Delhi Public School	Shri Manoj Paranjpe and Shri Bharat Sharma (in WP (PIL) No. 100/2020)
For Respondent/Union of India	: Shri Ramakant Mishra, Assistant Solicitor General

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

C A V Judgment**Per P.R. Ramachandra Menon, Chief Justice**

1. Judgment passed by the learned Single Judge in Writ Petition (C) No. 1040 of 2020 filed by the Bilaspur Private School Management Association Society, setting aside the impugned orders/circulars dated 01.04.2020 (Annexure P/1) and 22.04.2020 (Annexure P/2) issued by the Director,

Public Instructions, preventing the private school managements from collecting the tuition fees and also from taking any action for recovery is put to challenge in all the appeals, except WA No. 15/2021. The learned Single Judge has, however, permitted the private educational institutions to collect only the 'tuition fees' and not any other fees for the current academic session, which has been declared to be the same as that was charged for the previous academic session. WA No. 15/2021 is in fact against the verdict in WP(C) No. 2047/2020 whereby the Writ Petitioners were relegated to move the statutory authority/Government in view of the provisions of the Chhattisgarh Private Schools Fee Regulation Bill 2020 {Chhattisgarh Non Government Schools Fees Regulation Act, 2020 (*for short 'the Act, 2020'*)} for redressal of their grievances. WP(PIL) No. 100/2020 has been filed by an unregistered Association of the parents of the students who are pursuing their studies in the Delhi Public School, Durg, seeking to interdict the steps being pursued to collect the 'tuition fees' till proper fixation of the fees is undertaken by the statutory authority under the Act, 2020.

2. The Appellants in the above appeals (except WA No. 15/2021) were not parties to the writ petition and as such, the said appeals have been filed with a petition seeking for granting leave to file the appeals against the verdict passed by the learned Single Judge. The grievance projected by the Appellants and the Public Interest Litigant is in respect of the tuition fees and such other fees collected by the educational institutions concerned, particulars of which are summarised for easy reference as given below:

Sl.No.	Case No.	Educational Institution Concerned
1	WA No. 357/2020	The Jain International School, Bilaspur.
2	WA No. 380/2020	St. Xavier High School, Sarkanda, Bilaspur.
3	WA No. 381/2020	Loyola School, Rajeev Vihar, Lingiyadih, Bilaspur.
4	WA No. 382/2020	St. Xavier High School, Vyapar Vihar, Bilaspur.
5	WA No. 383/2020	Delhi Public School, Tifra, Bilaspur.

6	WA No. 384/2020	Brilliant Public School, Bahatarai, Bilaspur.
7	WA No. 389/2020	DAV School, Vasant Vihar, Bilaspur.
8	WA No. 390/2020	Brilliant Public School, Vyapar Vihar, Bilaspur.
9	WA No. 416/2020	Delhi Public School, Tifra, Bilaspur.
10	WA No. 15/2021	Bhavan's R.K. Sarda Vidya Mandir, Raipur.
11	WPIL 100/2020	Delhi Public School, Durg.

3. WA No. 357/2020 is taken as the lead case and the parties and proceedings are referred to as given therein, except where it is separately referred to.
4. The sequence of events reveals that pursuant to the outbreak of Covid-19 pandemic, the schools were virtually remaining closed from March, 2020 and slowly, by the passage of time, the classes were being taken mostly on the online platform. The educational institutions, as mentioned above are those in the 'unaided private sector' who are not receiving any grant or aid from the Government. They run the establishment on the basis of the fees collected from the students, for paying the salary to the teaching and non-teaching staff, installation of various infrastructure, day to day maintenance and development under different heads. Because of the various reasons, as a consequence of Covid-19 lockdown, the general public was virtually finding it difficult to make both their ends meet and this affected the field of education as well, whereby the parents of the children who were pursuing their studies in the above schools were finding it difficult to pay the fees. At the same time, running of the schools also became difficult for want of cash in flow, due to frequent and repeated defaults from the part of the students in satisfying the fees. In order to prevent any coercive action by the educational institutions, the 2nd Respondent issued Annexure P/1 circular dated 01.04.2020, whereby the private educational institutions were prohibited from collection of the school fees and directed not to resort to any coercive steps for recovery of the same. This was followed by Annexure P/2 dated 22.04.2020 issued by the very same authority directing the District Education Officers to call for a certificate/undertaking from all the private

educational institutions declaring that they have not demanded payment of tuition fees from any of the students. This virtually affected the very existence of the schools as they were having no other source of income or aid from the Government. At the same time, yet another circular was issued by the Government whereby it was directed that the private educational institutions shall continue to effect payment of salary to the teachers and staff and that there shall be no deduction of the same.

5. The frustrating circumstances as above made the writ petitioner Association representing the private educational institutions in the District Bilaspur to file WPC No. 1040/2020 seeking to set aside Annexure P/1 and Annexure P/2 and at least permit to them to receive the tuition fee overdue/outstanding as well as the regular tuition fee during the Covid-19 lockdown period. It was contended by the writ petitioner that issuance of Annexure P/1 and Annexure P2 was totally beyond any power, authority or jurisdiction and that it was highly arbitrary in all respects, insofar as the Government while interdicting the collection of tuition fees knew it very well that it was the sole source of funds as no grant or aid was being given or obtained. Further, the Government had also issued Annexure P/5 circular dated 06.04.2020 insisting that all the private schools would ensure that the salary of the Teaching and Non-Teaching staff in the schools should be paid uninterruptedly and it should not be reduced in any manner. It was also pointed out that majority of the students studying in the institutions run by the members of the Petitioner-Association were from a secured background where they were in a position to pay the school fees and were having good and strong financial support, who were more than willing to pay the school fees.
6. During the pendency of the writ petitions, some of the Intervenor representing the parents opposing the relief sought for appeared and

contended that the educational institutions should not be permitted to collect the fees and that the said institutions should make their own arrangements or they should meet the present situation from the funds available with them. The issuance of the impugned circulars was sought to be justified from the part of the State with reference to the calamity due to Covid-19. After hearing both the sides, the learned Single Judge held that, under similar circumstances, various High Courts like the High Court of Delhi, High Court of Punjab & Haryana and the High Court of Kerala have taken a consistent stand and have reached the conclusion that the contention that no fees should be collected during the lockdown period, should not be accepted, more so since running of the schools in the unaided segment was substantially on the tuition fees that was being collected, including payment of salary to the teaching and non-teaching staff, meeting the day to day expenditure and maintenance and other infrastructure, besides payment of electricity, water and security charges. It was accordingly that Annexure P/1 and Annexure P/2 were held as not sustainable, which came to be set aside also for having not issued in exercise of the statutory powers conferred upon the 2nd Respondent. The learned Single Judge observed that, if for any reason, any parent was facing financial crisis whereby there was no means to pay the school fees, such parents could approach the respective school authority; who in turn shall consider the same, and if required, can also get it duly verified and evolve a mechanism for dealing with the situation to ensure that the students continue their studies uninterrupted.

7. Going by the prayer raised by the writ petitioner that the educational institutions might be permitted to collect 'at least the tuition fees' from the students and also taking note of the struggle being faced by the whole mankind fighting against the Corona virus, the educational institutions were required not to enhance or revise the tuition fees until the situation normalises and improves, while permitting them to collect 'only the tuition

fees' (and not any other fees) which was outstanding for the previous academic session and also for the current academic session. It was made clear that the tuition fees must be the same as that was being charged for the previous academic session. The educational institutions were also directed to evolve and develop a mechanism to ensure that online education facilities reach every student in their school and in a given situation where a candidate is not in a position to have access to online education facility, the institution should evolve a system of providing such study material in this regard to the students; with which he can continue his studies uninterrupted. It was further directed that the fees collected shall be utilised at the first instance to effect the payment of salary of the staff, both teaching and non-teaching and that no institution shall be permitted to withhold the salary nor reduce it to any extent. Correctness of the said judgment is put to challenge in the appeals concerned as mentioned above.

8. A reply statement has been filed on behalf of the Respondents 1 to 3/State in WA No. 357/2020 referring to the course and events. It is pointed out that, based on the verdict passed by the learned Single Judge, appropriate instructions have already been issued to all the Schools as per Annexure R/1 dated 15.07.2020, followed by Annexure R/2 dated 17.07.2020 alerting all concerned not to pressurize the parents or the students in any manner for depositing the fees. An Enquiry Committee has been constituted to look into the complaints regarding coercion made by the private institutions and thereafter, Annexure R/4 and Annexure R/5 were issued on 07.08.2020 and 03.09.2020, respectively directing to give effect to the verdict passed by the learned Single Judge and not to debar any student from attending the online classes on account of non-payment of tuition fees. Reference is also made to Annexure R/7 proceedings dated 20.09.2020 issued from the office of the 2nd Respondent to identify the students who have already left the Schools for some or the other reason, so as to give admissions to them in the

Government Schools. It is further pointed out that the Government has already enacted the Act, 2020 and published the same in the official gazette on 28.09.2020 for giving legal basis to mutual consultation among the school management and the guardians in the process of fixation of fees in non-government schools; also providing the procedure for fixation of the fees. It is asserted in paragraph 11 of the return that steps have already been taken to ensure compliance of the order passed by the learned Single Judge. Reply has been filed on behalf of the 5th Respondent-CBSE as well, insofar as their involvement is concerned.

9. When the matter came up for consideration before this Court on 21.09.2020, the Respondents/State were directed to ensure that the students who are pursuing the studies in the schools concerned are not denied the right to pursue studies in the respective schools, if the directions given by the learned Single Judge are satisfied from their part. Pursuant to the order dated 10.12.2020, the Petitioner-Association has placed on record a tabulated chart showing the fees to be collected by the private educational institutions. It was also pointed out that as per the data collected, almost 70% of the schools were offering discount in fees and as many as 8000 budget schools were charging fees less than Rs. 1000/- per month. Some of the schools have already been closed down due to Covid-19 pandemic situation. It has been asserted that the schools under the Petitioner's Association are not charging any hidden fees under the head 'tuition fees' as alleged in the Public Interest Litigation. The very maintainability of the said petition is also disputed seriously on different grounds.
10. When the above matters are taken up for consideration today, it is brought to the notice of this Court that the course of action to be pursued, particularly during the Covid-19 pandemic, as to the satisfaction of the fees payable by the students in the private educational institutions in the State of

Rajasthan was one among the issues for consideration before the Apex Court in SLP(C) No. 27907 - 27916/2019. Taking note of the facts and figures, an order has been passed by the Apex Court on 08.02.2021 in the following terms:

"Special Leave Petition (C) Diary No. 3533 of 2021 is taken up along with these matters, at the request of the petitioners therein.

The hearing of these cases has been commenced and is part heard. But, since the hearing is likely to take some more time, we deem it appropriate to pass interim directions which will address the concerns of all parties in some measure.

We propose to stay the impugned order on the following conditions:

(a) The management/school may collect fees for the academic year 2019-2020 as well as 2020-2021 from the students, equivalent to fees amount notified for the academic year 2019-2020, in six monthly installments commencing from 5th March, 2021 and ending on 5th August, 2021.

(b) The Management shall not debar any student from attending either online classes or physical classes on account of non-payment of fees, arrears/outstanding fees including the installments, referred to above, and shall not withhold the results of the examinations of any student on that account.

(c) Where the parents have difficulty in remitting the fee in terms of this interim order, it will be open to those parents to approach the school concerned by an individual representation and the management of the school will consider such representation on a case-to-case basis sympathetically.

(d) The above arrangement will not affect collection of fees for the academic year 2021-2022, which would be payable by the students as and when it becomes due and payable, and as notified by the management/school.

(e) In respect of the ensuing Board examinations for classes X and XII (to be conducted in 2021) the school management shall not withhold the name of any student/candidate on the ground of non-payment of the fee/arrears, if any, on obtaining undertaking of the concerned

parent/student.

(f) The above arrangements would be subject to the outcome of these matters including the final directions to be given to the parties and without prejudice to the rights and contentions of the parties in these proceedings.

(g) We also direct the State of Rajasthan to ensure that all government outstanding dues towards unit cost payable to respective unaided schools are settled within one month from the today and, in any case, before 31st March, 2021.

Ordered accordingly.

Heard in part.

Hearing of the aforesaid cases, shall continue on 15th February, 2021."

The matter was heard further on 15.02.2021 and the hearing was concluded on the next date, when it was taken up for judgment.

11. Shri Ashish Shrivastava, the learned counsel appearing for the Writ Petitioner-Association points out that the Apex Court has permitted the management schools to collect the entire fees for the academic year 2019-2020 and 2020-2021 in six equal monthly installments; ordering that the Management shall not debar any student from attending the online classes or physical classes on account of the non-payment of fees/arrears and shall not withhold the result of the examination of various students, simultaneously observing that if any parent finds difficulty in remitting the fees in terms of the interim order, it would be brought to the notice of the school concerned by filing a representation; which has been directed to be dealt with on a 'case to case' basis, sympathetically. It is also made clear in the said order that the said arrangement shall not affect collection of fees for the academic year 2021-2022, which is to be paid as and when it becomes due and payable.
12. In the instant case, it is pointed out, what has been ordered by the learned Single Judge is only the collection of 'tuition fees' and that nothing else is

being collected by the educational institutions represented by the Writ Petitioner-Association. Since the educational institutions cannot survive without collection of the tuition fees, paying salary to the teaching and non-teaching staff besides providing infrastructure development and day-to-day maintenance, the challenge raised by the Appellants or the Petitioner in the Public Interest Litigation is not correct or sustainable either on fact or in law. That apart, the State having brought about the Act, 2020, providing for fixation of the fees in the manner as provided therein, the Appellants or the Writ Petitioner in the Public Interest Litigation cannot be heard to say that they have any subsisting grievance in this regard. It is with reference to the said enactment, that the Appellants in WA No. 15/2021 have been relegated to move the statutory authority/Government, if at all they are having any grievance. We find considerable force in the submissions. No circumstance warranting interference with the verdict passed by the learned Single Judge has been brought about in any of the appeals. In fact, the verdict passed by the learned Single Judge falls in line with the order passed by the Apex Court as extracted above, though it was passed prior to the date of passing order by the Apex Court as an interim arrangement. In the said circumstances, the challenge raised in the appeals fails and they are only to be dismissed as devoid of merit.

13. Coming to WP(PIL) No. 100/2020, the prayers are in the following terms:

"10.1 That, this Hon'ble Court may kindly be pleased to call for the entire records related to the instant dispute.

10.2 That, this Hon'ble Court may kindly be pleased to issue an appropriate writ or order issuing positive directions to the effect that the Private Schools in the State shall not insist or pressurize payment of 'tuition fees' for the present academic year 2020-21 and the same shall remain suspended, without attracting any penal or coercive action by the Schools, till the Private Schools' Management get their present fee-structure, including the 'tuition fees' for the academic year 2020-21, duly approved under the mechanism of the Act of 2020.

10.3 That, in the alternate, this Hon'ble Court may kindly be pleased to issue an appropriate writ or order to the effect that, in view of the present pandemic situation, the payment of School fees by the parents is waived for the present academic year 2020-21.

10.4 That, in the alternate, this Hon'ble Court may kindly be pleased to issue an appropriate writ or order determining the partial proportion of the existing tuition fees payable by the parents till the Private Schools' Managements get their present fee-structure, including the 'tuition fees' for the academic year 2020-21, duly approved under the mechanism of the Act of 2020.

10.5 Any other relief/order/direction, which this Hon'ble Court may deem fit and proper, may also kindly be granted in the interest of justice and the reliefs prayed may kindly be moulded accordingly.

10.6 Cost of the petition."

14. Even a plain reading of the above prayers shows that the Writ Petitioner-Association wants to have relief beyond the directions given by the learned Single Judge in WPC No. 1040/2020 on 09.07.2020 (produced as Annexure P/6 therein), without raising any challenge against the said verdict. What shall be the course of action with regard to collection of fees has been made clear by the learned Single Judge in the above judgment, which governs the field. As such, the attempt of the Writ Petitioner in WPPIL No. 100/2020 is to get over the said verdict in an indirect manner, without raising any challenge against the same. As it stands so, there is no merit or *bonafides* in the prayers raised to interdict the payment of tuition fees for the academic year 2020-2021.
15. Another important aspect to be noted is that the Petitioner in the PIL concedes in paragraph 2 of the writ petition that the 4th Respondent is the school where the wards of the Petitioner-Association are studying. This means, the writ petition is filed in a representative capacity on behalf of the members of the Association who are the parents of the students/children who are pursuing their studies in the 4th Respondent institution and that they are aggrieved by the tuition fees being collected by the 4th Respondent-

School. This clearly depicts the "private/personal interest" of the parties who are sought to be represented by the Petitioner-Association. This being the position, though the Petitioner-Association repeatedly says that there is no personal interest but for the public interest alleged, we find it difficult to accede the said proposition as the private interest behind filing of the writ petition is very much revealed by the Petitioner-Association itself. The Writ Petition filed by the Association of the parents of the students pursuing their studies in the 4th Respondent-School is one as good as the writ petition filed by the parents themselves, and hence, it cannot change the colour and characteristic or the nature of the litigation involving 'private interest', to be branded as a Public Interest Litigation. On more than one occasion, has the Petitioner-Association stated in the writ petition including under paragraph 3(B), that the 'parents' are not against payment of tuition fees but for pointing out the necessity to fix the fees in terms of the Act, 2020 and that the 'parents' are approaching this Court with a limited prayer seeking some relief in the nature of a buffer, till the Fees Fixation Committee contemplated under the Act, 2020 conclusively decides the tuition fees for the current academic year 2020-2021. It has been repeated in paragraph 3(C), that the instant petition is being preferred (in representative capacity) espousing the cause of a group of persons who are the members of the Petitioner-Association and that the Petitioner is an old Association of parents/students studying in the 4th Respondent/School. This is virtually repeated in paragraph 8.1 and 8.2 of the writ petition as well. Common grievance of a group of people (parents of the students pursuing their studies in the 4th Respondent/School) projected through the Association of the parents will not make the proceedings as a Public Interest Litigation. The writ petition is not maintainable on this score as well.

16. In the above facts and circumstances, we find absolutely no merit in any of the appeals. WP(PIL) No. 100/2020 is not maintainable to be pursued as a

Public Interest Litigation and we hold that there is no merit as well. They are dismissed accordingly. It is made clear that, this however shall be subject to the outcome of the issue pending consideration before the Apex Court in the matters referred to above and is without prejudice to the rights and liberties of the parties concerned, to get the fees fixed by the Competent Authority in terms of the Act, 2020.

Sd/-
(P.R. Ramachandra Menon)
CHIEF JUSTICE

Sd/-
(Parth Prateem Sahu)
JUDGE