

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 175 OF 2021

Ishika Sudhija

Parents of Saksham Sudhija & Anr.

...Petitioners

V/s.

State of Maharashtra through

Deputy Director of Education & Ors.

...Respondents

Ms. Anamika Malhotra a/w. Mr. Mainak Adhikary for the
Petitioners.

Mr. Sharan Jagtiani, Senior Advocate a/w. Ms. Surbhi Agrawal
i/b. Ketki Gadkari for the Respondent Nos.2 and 3.

Mr. N. K. Rajpurohit, AGP for the Respondent No.1-State.

CORAM : NITIN JAMDAR AND
C. V. BHADANG, JJ.

DATE : 29 June 2021
(Through Video Conferencing)

P.C.

. On 15 June 2021, the following order was passed.

Heard the learned counsel for the parties.

2. We have been informed that the State Government has constituted a Committee for examining the issues inter se parents and school management regarding fee structure. The learned AGP seeks time to find out whether the dispute

raised in this petition towards Annual Miscellaneous Charges falls within the ambit of the said Committee. Learned AGP to take instructions before the next date.

3. The learned counsel for the Respondent school points out that apart from Annual Miscellaneous Charges, which are disputed in this petition, the Petitioners have not paid the regular tuition fees. Therefore, the issue is not only regarding non-payment of Annual Miscellaneous Charges but also the tuition fees. That being the position, no reason is pleaded or shown why the Petitioners should not deposit the amount towards tuition fees other than the Annual Miscellaneous Charges.

4. The learned counsel for the Petitioners prays that if the Petitioners deposit the amount other than the Annual Maintenance Charges towards tuition fees within one week without prejudice and subject to further adjustment, the Petitioners be permitted to attend online classes. The request made is reasonable and is also agreed upon by the learned counsel for the Respondent.

5. Therefore, while we defer the hearing of this petition for two weeks to enable the learned AGP to take instructions, we direct that the Petitioners will deposit the tuition fees as communicated by the Respondent school within one week from the date the Respondent school communicates the charges to be paid. This deposit made by the Petitioners pursuant to the communication would be without prejudice to the rights and contentions of the parties and to be adjusted if the Petitioners ultimately succeed.

6. In view of this consensus, we direct that the Respondent school will permit the Petitioners students to attend online classes forthwith. It is clarified that access to online classes given to the

Petitioners students is an interim arrangement in the above facts and circumstances and without prejudice.

7. Stand over to 29 June 2021.

2. Learned AGP tenders a copy of the instructions received from the Respondent No.1 dated 24 June 2021 wherein it is stated that the Committee constituted by the State Government by Government Resolution dated 26 February 2020 can look into the issues of Annual Miscellaneous Charges (AMC) and the grievance of the Petitioners raised in this Petition. Therefore, it is not necessary to keep the Petition pending as the Petitioners can approach the Committee as per Government Resolution dated 26 February 2020.

3. As regards the arrangement arrived at regarding the online education of the Petitioners / students, the order dated 15 June 2021 it proceeds on reciprocal obligations. The learned counsel for the Respondent Nos.2 and 3 states that the Petitioners have not adhere to Clause 4 of the order. The learned counsel for the Petitioners states that it would be complied with within a period of two weeks. We accept the statement and grant further time to the Petitioners. However, considering the reciprocal arrangement, we make it clear that if the Petitioners fails to adhere to Clause 4 of the order dated 15 June 2021 within a period of two weeks as above, the Respondent Nos.2 and 3 will be relieved of the

obligation under order dated 15 June 2021. If the Petitioners adhere to the Clause 4 of the order dated 15 June 2021, the arrangement in the order dated 15 June 2021 will continue till the Committee disposes of the grievance, and for a period of four weeks thereafter.

4. The Writ Petition is accordingly disposed of. Since we are referring the dispute to the Committee, none of our observations in the order dated 15 June 2021 will be considered as observations on merits of the dispute between the parties. It is open to the Respondent Nos.2 and 3 to make a request to the Committee for early disposal of the grievance.

(C. V. BHADANG, J.)

(NITIN JAMDAR, J.)