



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.09.2021

CORAM:

THE HONOURABLE Mr.JUSTICE N.ANAND VENKATESH

W.P. No.19483 of 2021

and

WMP No.20785/2021

Good Shepherd Matriculation Higher Secondary School
represented by the Correspondent
65(32) College Road,
Nungambakkam,
Chennai 600 006

.. Petitioner

Vs

1.The Commissioner of School Education,
The DPI Campus, College Road,
Chennai 600 006.

2.The Chief Educational Officer,
The Office of the Chief Educational Officer,
Presidency Girls Higher Secondary School
Egmore, Chennai.

3.District Educational Officer,
The Office of the Educational Officer,
Egmore, Chennai.

4.The Special Officer,
Tamil Nadu Private Schools Fee Determination Committee
The DPI Campus, College Road,
Chennai 600 006.

..Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the 1st respondent to permit the petitioner to collect the fee as determined for the year 2021-22, by order dated 06.05.2021 by the Hon'ble Fee Determination Committee, subject to the other conditions stipulated in the proceedings dated 09.08.2021 in R.C.no.32673/G2/2021 on the file of the 1st respondent.

For Petitioner : Mr.Fr.Xavier Arul Das
Senior counsel for
M/s.Father Xavier Associates

For Respondents : Mr.A.Selvendran
Government Advocate



ORDER

This writ petition has been filed for the issue of a writ of mandamus directing the first respondent to permit the petitioner to collect the fees as determined by the Fee Determination Committee through proceedings dated 06.05.2021 subject to the other conditions stipulated in the proceedings of the first respondent dated 09.08.2021.

2.This Court in exercise of its jurisdiction under Article 226 of the Constitution of India, in order to render substantial justice, intervened in the payment of tuition fees for the schools and Colleges during the pandemic period. Taking into consideration the prevailing circumstances and in order to strike a balance between the students and the educational institutions, certain directions were issued by this Court by an interim order dated 17.07.2020. Among other directions, one of the direction that is relevant for the purposes of this case is direction (b) and the same is extracted hereunder:

"(b) the unaided private institutions shall collect 40% of the tuition fees as an advance fees based on the tuition fees collected during the academic year 2019-2020. This advance fee shall be paid by the students on or before 31.08.2020."

Based on the interim order passed by this Court, the private educational institutions were allowed to collect the fees during the previous academic year.

3.This Court while passing interim orders also directed the Fee Determination Committee to start the process of determining the tuition fees for the respective institutions. Accordingly, the petitioner school had also gone before the Fee Determination Committee and submitted all the materials. The Fee Determination Committee, upon considering the materials placed before it and upon conducting an enquiry, through order dated 06.05.2021 determined the fees payable by the petitioner school for the academic year 2020-21, 2021-22 and 2022-23.

4.The pandemic situation did not substantially improve and the same problem persisted, which resulted in this Court once again intervening in the matter and passing an order in a batch of Writ Petitions in W.P.Nos.8490 etc. of 2021 dated 30.07.2021. This Court, considering the entire facts and circumstances and also the grievance that was raised by the institutions as well as the students, disposed of the writ petitions by issuing a slue of directions at Paragraph No.21 of the order. Pursuant to the above order passed by this Court, the first respondent through proceedings dated 09.08.2021 issued a notification, which was circulated to all the schools concerned through the Chief Educational Officers.



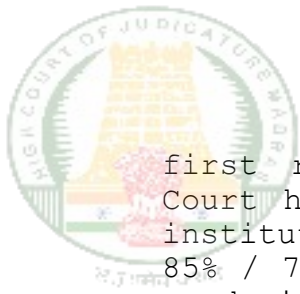
5.The grievance of the petitioner is that the Fee Determination Committee had already determined the fees to be collected by the petitioner school from 2020 up to 2023 and the directions that were issued by the first respondent should have taken into consideration the fee that was determined by the committee and whereas direction issued by the first respondent in the notification seems to have suggested that the collection of 85% of fees will be based on the fee fixed for the academic year 2019-20 and the same will be 75% for students/parents, who are having financial constraints and that was also based on the fee fixed for the academic year 2019-20.

6.In view of the above notification issued by the first respondent, in spite of the fact that the Fee Determination Committee had fixed the fees to be collected by the petitioner School from 2020-21, the petitioner school is not able to collect the appropriate fees due to the restrictions imposed in the notification issued by the first respondent. Aggrieved by the same, the present writ petition has been filed before this Court seeking for appropriate directions.

7.Heard the learned counsel for the petitioner and the learned Government counsel appearing on behalf of the respondents.

8.The learned Senior counsel appearing on behalf of the petitioner submitted that for the academic year 2019-20, the petitioner school is yet to receive the fees to the tune of Rs.18,53,268/-. The learned Senior counsel further submitted that for the academic year 2020-21, the petitioner school is yet to receive the fees to the tune of Rs.66,73,909/-, which reflects 75% of the fees as directed by this Court. As such the total amount of fees that is outstanding and payable to the petitioner school is a sum of Rs.85,27,177/- for the last two academic years. The learned Senior counsel further submitted that the petitioner school is finding it very difficult to meet the financial exigencies and compounding to the existing problem, the fee that was determined by the committee is not able to be collected by the petitioner school in view of the restriction imposed by the notification issued by the first respondent.

9.Per contra, the learned Government counsel appearing on behalf of the respondents submitted that the notification was issued by the first respondent based on the directions issued by this Court while disposing of the batch of writ petitions by an order dated 30.07.2021. The learned counsel submitted that the restriction was imposed to the educational institutions to collect the fees based on the fee fixed for the academic year 2019-20 in view of the fact that in most of the cases, the Fee Determination Committee is yet to determine the fees. Therefore, in order to remove any ambiguity, the



first respondent, based on the directions, issued by this Court had given standard instructions to all the educational institutions to collect the annual school fees at the rate of 85% / 75%, as the case may be, based on the fee fixed for the academic year 2019-20. The learned Government counsel further submitted that in cases where the Fee Determination Committee has already determined the fees for the concerned academic year, those cases will have to be dealt with separately and only those schools will be entitled to collect the fees as determined by the fee determination committee.

10. This Court has carefully considered the submissions made on either side and the materials available on record.

11. As rightly contended by the learned Government counsel appearing on behalf of the respondents, the first respondent, while issuing the notification, had taken into consideration the directions issued by this Court in the batch of writ petitions. While issuing the directions, only common guidelines can be given by the first respondent taking into consideration the fact that the Fee Determination Committee has not determined the fees for all the educational institutions. Therefore, the guidelines as found in Clause (1&2) in the notification issued by the first respondent cannot be found fault with.

12. In the present case, the petitioner school has approached the Fee Determination Committee and submitted all the materials and based on the same, the Fee Determination Committee, by an order dated 06.05.2021, has fixed the fees to be collected by the petitioner from the academic year 2020 up to 2023. Therefore, insofar as the petitioner school is concerned, clause 1 and 2 of the notification issued by the first respondent should be read as 85% / 75% of the annual school fees based on the fees fixed by the Fee Determination Committee through order dated 06.05.2021. Once this clarity is issued, it will be open to the petitioner school to collect the fees based on the above order. It goes without saying that all the other conditions as imposed in the notification issued by the first respondent through proceedings dated 09.08.2021 will apply to the petitioner school also.

13. This writ petition is disposed of accordingly. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar



To

1. The Commissioner of School Education,
The DPI Campus,
College Road,
Chennai 600 006.

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Tamil Nadu Private Schools Fee Determination Committee
The DPI Campus
College Road,
Chennai 600 006.

+1cc to Mr. Father Xavier Associates, Advocate, S.R.No.46787
+1cc to the Government Pleader, S.R.No.47192

+1cc to Mr. Father Xavier Associates, Advocate, S.R.No.46787
(26/10/2021)

W.P.No.19483 of 2021

KSM(CO)
GN(11/10/2021)