

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

PUBLIC INTEREST LITIGATION NO. 13 OF 2021

Vijay Babasaheb Sale	}	Petitioner
versus		
The State of Maharashtra	}	
and Ors.	}	Respondents

Mr. Sandip Patade for the petitioner.

Mr. P. P. Kakade-Government Pleader with Mr. B. V. Samant-AGP for State.

Mr. Sandeep V. Marne for respondent nos. 6 and 7.

**CORAM: DIPANKAR DATTA, CJ &
VINAY JOSHI, J.**

DATE: MARCH 7, 2022

P.C.:

1. This PIL petition dated 7th June 2021 is at the instance of a public-spirited individual who seeks orders for reduction in tuition fees charged by schools for the academic years 2019-2020 and 2020-2021 due to the lock-down imposed by the Government of Maharashtra, and extended from time to time, on account of the pandemic caused by COVID-19. The sheet-anchor of the petitioner's case is the judgment and order dated 3rd May 2021 passed by the Supreme Court in Civil Appeal No. 1724 of 2021 (**Indian School, Jodhpur & Anr. vs. State of Rajasthan and Ors.**) and other connected appeals. By such judgment and order, the Supreme Court, while dealing with similar grievances arising out of the State

of Rajasthan, disposed of a set of appeals on the terms mentioned in paragraph 117 thereof. The relevant directions read as follows: -

"117. Ordinarily, we would have thought it appropriate to relegate the parties before the Regulatory Authority to refix the school fees for the academic year 2020-21 after taking into account all aspects of the matter including the advantage gained by the school Management due to unspent overheads/ expenses in respect of facilities not availed by the students. However, that course can be obviated by the arrangement that we propose to direct in terms of this judgment. To avoid multiplicity of proceedings (as school fee structure is linked to school – school wise) including uncertainty of legal processes by over 36,000 schools in determination of annual fee structure for the academic year 2020-21, as a one-time measure to do complete justice between the parties, we propose to issue following directions:

(i) The appellants (school Management of the concerned private unaided school) shall collect annual school fees from their students as fixed under the Act of 2016 for the academic year 2019-20, but by providing deduction of 15 per cent on that amount in lieu of unutilized facilities by the students during the relevant period of academic year 2020-21.

(ii) The amount so payable by the concerned students be paid in six equal monthly instalments before 05.08.2021 as noted in our order dated 08.02.2021.

(iii) Regardless of the above, it will be open to the appellants (concerned schools) to give further concession to their students or to evolve a different pattern for giving concession over and above those noted in clauses (i) and (ii) above.

(iv) The school 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.

(v) If any individual request is made by the parent/ward finding it difficult to remit annual fees for the academic year 2020-21 in the above terms, the school Management to consider such representation on case-to-case basis sympathetically.

(vi) The above arrangement will not affect collection of fees for the academic year 2021-22, as is payable by the students of the concerned school as and when it becomes due and payable.

(vii) The school Management shall not withhold the name of any student/candidate for the ensuing Board examinations for Classes X and XII on the ground of non-payment of fee/arrears for the academic year 2020-21, if any, on obtaining undertaking of the concerned parents/students."

2. It is not in dispute that during the pendency of this PIL petition, a Government Resolution dated 12th August 2021 has been issued, whereby reduction of 15% in tuition fees has been ordered applicable to the academic session 2021-2022.

3. It is not in dispute that the Government Resolution dated 12th August 2021 has been challenged in Writ Petition No. 4633 of 2021 (**Association of Indian Schools and Anr. vs. State of Maharashtra and Ors.**) and a coordinate Bench of this Court, by order dated 25th August 2021, restrained the respondents in the writ petition from taking any coercive steps against the petitioners for not implementing the impugned resolution.

4. It is in such factual background that we are now tasked to consider the prayers made by the petitioner, reading as follows: -

"a. That this honorable court may be pleased to issue appropriate writ or orders or necessary directions thereby directing the Respondents to issue necessary orders to the schools to reduce the school fees to the reasonable extent or this

honorable court thing fit and proper or in that case upto 50% of the fees decided by the Executive Committees of the schools in the year 2019-20, for the academic year 2019-20 and 2020-21 considering the situation of covid 19 pandemic,

b. That this honorable court may be pleased to issue appropriate writ or orders or necessary directions thereby directing the schools more particularly for the jurisdiction of Navi Mumbai thereby directing to reduce the school fees to the reasonable extent or this honorable court thing fit and proper or in that case upto 50% of the fees decided by the Executive Committee of the schools in the year 2019-2020, for the academic year 2019-20 and 2020-21 considering the covid 19 pandemic."

5. As a result of the national lockdown, which was imposed on 24th March 2020, all activities came to a grinding halt. However, at the commencement of the academic session 2019-2020 and till almost the last week of such academic session, there was no threat of the pandemic and, therefore, we wonder why the petitioner has claimed reduction of fees for the academic year 2019-2020. We have, therefore, no hesitation in rejecting the prayer *qua* the academic year 2019-2020.

6. A grievance is sought to be made on behalf of the petitioner that the Government Resolution 12th August 2021 does not allow reduction of fees for the academic session 2020-2021. Indeed, it is so; however, sight cannot be lost of the fact that reduction in fees has been granted by the said resolution for the academic session 2021-2022 which is not included in the prayers of the petitioner. We have ascertained from Mr. Patade, learned advocate for the petitioner that there is no order of the Supreme Court extending the benefit of

reduced fees to the subsequent academic session, i.e., 2021-2022. The Government having granted reduction for one academic session and there being no challenge at the instance of the petitioner to the Government Resolution dated 12th August 2021 insofar as it does not grant any reduction for the academic session 2020-2021, we are of the considered view that the purpose for which this PIL petition was instituted has worked itself out. Reduction of fees having been granted in respect of one academic session, the grievance of the petitioner does not survive.

7. In view thereof, we dispose of this PIL petition. There shall be no order as to costs.

SALUNKE
JV

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by SALUNKE J V
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(VINAY JOSHI, J.)

(CHIEF JUSTICE)