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W.P.No.19089 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 01.09.2022

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THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.No.19089 of 2022 and W.M.P.
Nos.18396, 18397 and 18398 of 2022

Don Bosco Matriculation Higher Secondary School,
rep. by its Correspondent,
No.6, Paper Mills Road,
Peravallur Road,
Chennai – 600 082.

... Petitioner

VS

1.Director of Matriculation Schools,
Directorate of Matriculation Schools,
DPI Campus, Chennai – 600 006.

2.The Private Schools Fee Determination Committee,
rep. by its Special Officer,
PTA Building, DPI Campus,
College Road,
Chennai – 600 006.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus calling for the records pertaining to the impugned communication dated 05.06.2022 on the file of the second respondent and quash the same, consequently directing the respondents to permit the petitioner School to follow the fee structure of the year 2020-2021 as determined by the second respondent on 02.04.2019 also for the current academic year in accordance with Section 6(5) of the Tamil Nadu Schools (Regulation of Collection of Fee) Act, 2009.



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For Petitioner : Dr.Father Xavier
Senior Counsel for
M/s.Father Xavier Associates for
Ms.A.Arul Mary

For Respondents : Mr.K.V.Sajeev Kumar,
Special Government Pleader

ORDER

[Order of this Court delivered by T.RAJA, J.]

This writ petition has been filed by the petitioner, challenging the impugned communication dated 05.06.2022 issued by the Private Schools Fee Determination Committee, the second respondent herein and seeking a direction to the respondents to permit them to follow the fee structure of the year 2020-2021 as determined by the second respondent on 02.04.2019 also for the current academic year in accordance with Section 6(5) of the Tamil Nadu Schools (Regulation of Collection of Fee) Act, 2009.

2.Dr.Father Xavier, learned Senior Counsel representing for Ms.A.Arul Mary, learned counsel for the petitioner/Don Bosco Matriculation Higher Secondary School, rep. by its Correspondent submitted that since the parents are facing difficulties in making the tuition fees to their children, due to Covid-19 pandemic situation, during the year 2019-20 and also the subsequent years, the petitioner School has decided not to go for any revised fee structure



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and to follow the existing fee structure of the year 2020-21 in accordance with Section 6(5) of the Tamil Nadu Schools (Regulation of Collection of Fee) Act, 2009. In this regard, the petitioner has made a representation dated 11.04.2022 to the Special Officer, Tamil Nadu Private Schools Fee Determination Committee stating that since the petitioner is facing an abnormal situation on the financial administration of the school, due to the post-covid economic melt down and many students find it difficult to pay even the fee of 75% to 85% for the current academic year, as and when the normalcy returns the petitioner will approach the Committee for revision in the forth coming years. But, the Committee has passed an rejection order stating that there is no provision in the Act even to consider the request made and the Committee under the Act has also no power to give such a permission. Learned senior counsel, drawing our notice to Section 6(5) of the Tamil Nadu Schools (Regulation of Collection of Fee Act 2009, argued that the Committee shall determine the fee leviable by a private school taking into account the various factors mentioned in Section 6(1) a to e and 6(5), which says that at the end of the period, the private school would be at liberty to apply for revision. Therefore, the above representation made by the petitioner, in all fairness, should have been accepted because the petitioner School do not wish to compel the parents to pay the



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revised fee structure in order to facilitate the students to gain the education from the petitioner school in a peaceful manner. Since the laudable object made by the petitioner in the above representation, which was placed before the Committee, was rejected, the petitioner is before this Court. Learned senior counsel also submitted that as the petitioner school do not want to enhance or increase the tuition fees for the current academic year 2022-23 in view of the Covid-19 pandemic situation, the request of the petitioner school be considered by allowing the writ petition.

3.Learned Special Government Pleader appearing for the respondents submitted that the object and intention of the petitioner School in moving the representation dated 05.04.2022 before the Private Schools Fee Determination Committee, no doubt, clearly show that they do not wish to increase or enhance the existing fee structure for the years 2019-20 and 2020-21.

4.In reply, learned senior counsel appearing for the petitioner submitted that though the petitioner is legally entitled to get the benefit of 10% increase, they do not want to accept the enhancement of 10% even for the academic year 2022-23.



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5.In this regard, it is necessary to extract Section 6(5) of the Tamil Nadu Schools (Regulation of Collection of Fee) Act, 2009 as under:

'6.Factors for determination of fee-

(5)The orders passed by the Committee shall be final and binding on the Private School for 3 academic years. At the end of the said period, the Private School would be at liberty to apply for revision.'

6.A perusal of the above provision shows that the Committee shall determine fee leviable by a Private School taking into account the various aspects, namely, a)the location of the Private School; b)the available infrastructure facilities; c)the expenditure of administration and maintenance; d)the reasonable surplus required for the growth and development of the private school and e)any other factors as may be prescribed.

7.Sub clause 5 of Section 6 also shows that the orders passed by the Committee shall be final and binding upon the private schools for 3 academic years and at the end of the said academic period, the private schools are given liberty to apply for revision. In the present case, when the private school herein at the end of the academic period moved a representation dated 11.04.2022 for following the existing fee structure, fixed by the Committee, for the academic



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years 2019-20 and 2020-21, the same was rejected by the Committee stating the reason that there is no provision in the Act even to consider the request made by the petitioner and the Committee under the Act has no power to give such a permission. Therefore, when the School Committee has directed the petitioner to collect the school fees from the schools in three terms, considering the pandemic situation commenced from 2019 and continued in the years 2020 and 2021, the petitioner has come forward not to enhance the fee structure for the said academic years and also taken a stand that they are not willing to collect even 10% increase for the academic year 2022-23. When the petitioner School is gracious enough not to increase the fee structure for the said period due to covid-19 pandemic situation and also has decided not to increase 10% hike for the academic year 2022-23, it is not known why the Fee Fixing Committee can decline to accept a benevolent gesture in the interest of students.

8. Therefore, the impugned order passed by the second respondent is set aside and this writ petition stands allowed. Consequently, connected W.M.Ps stand closed. No costs.

[T.R.,J.] [K.B.,J.]
01.09.2022



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To

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