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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 19.03.2021

Pronounced on : 27.04.2022

CORAM

THE HONOURABLE THIRU JUSTICE B.PUGALENDHI

W.P.Nos.17933, 17963, 18526, 18783, 19056 of 2020
and
W.P.Nos.14, 408, 855 of 2021

JOSHUA EDUCATIONAL AND CHARITABLE TRUST,
REP BY ITS CHAIRMAN S.A.JOY RAJA,
THE INDIAN AGRICULTURAL COLLEGE,
RADHAPURAM, TIRUNELVELI.

... PETITIONER in WP No.17933 of 2020

SREE KRISHNA EDUCATIONAL TRUST,
REP BY ITS FOUNDER AND MANAGING TRUSTEE,
DR. K. BALARAMAN, COLLEGE OF AGRICULTURE
TECHNOLOGY, KULLAPURAM VILLAGE,
PERIYAKULAM TALUK, THENI DISTRICT.

... PETITIONER in WP No.17963 of 2020

RUKMANIAMMAL EDUCATIONAL AND CHARITABLE TRUST,
REPRESENTED BY ITS FOUNDER AND MANAGING TRUSTEE,
K.CHANDRASEKARAN, KRISHNA COLLEGE OF AGRICULTURAL
AND TECHNOLOGY, SRIRENGAPURAM, USILAMPATTI TALUK,
MADURAI DISTRICT.

... PETITIONER in WP No.19056 of 2020

ADHIYAMAAN EDUCATIONAL AND RESEARCH INSTITUTIONS,
REPRESENTED BY ITS TRUSTEE S.BALAKRISHNAN,
ADHIYAMAAN COLLEGE OF AGRICULTURE AND RESEARCH
ATHIMUGAM VILLAGE, SCHOOLAGIRI TALUK,
KRISHNAGIRI DISTRICT.

... PETITIONER in WP No.855 of 2021

-VS-

1 THE STATE OF TAMILNADU
REP BY ITS THE AGRICULTURAL PRODUCTION
COMMISSIONER AND PRINCIPAL SECRETARY TO
GOVERNMENT, SECRETARIAT, FORT.ST.GEORGE,
CHENNAI- 600 009.



2 THE TAMIL NADU AGRICULTURAL
UNIVERSITY, REP BY ITS REGISTRAR,
LAWLEY ROAD, COIMBATORE.

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3 THE CHAIRMAN, COMMITTEE ON FIXATION
OF FEE IN RESPECT OF PRIVATE
COLLEGES OF AGRICULTURE AND ALLIED SUBJECTS
AFFILIATED TO TNAU HAVING OFFICE AT SAKTHI
CENTRE, NO.3, (BASEMENT) JUSTICE SUNDARAM ROAD,
MYLAPORE, CHENNAI - 4.

4 MR GANGANDEEP SINGH BEDI, I.A.S.,
THE MEMBER AGRICULTURAL PRODUCTION
COMMISSIONER AND PRINCIPAL SECRETARY TO
GOVT HAVING OFFICE AT SECRETARIAT,
FORT.ST.GEROGE, CHENNAI-9.

5 MR V.RAVICHANDRAN F.C.A.,
THE MEMBER CHARTERED ACCOUNTANT OF REPUTE,
NO.49, 6TH MAIN ROAD, RAJA ANNAMALAIAPURAM
CHENNAI-28.

6 MR OVR. SOMASUNDARAM,
THE MEMBER, PROGRESSIVE AGRICULTURALIST,
ODAYAKULAM, POLLACHI TALUK,
COIMBATORE DISTRICT.

7 DR.K.K.VIJAYAN PHD., ARS.,
THE MEMBER, DIRECTOR OF ICAR,
CENTRAL INSTITUTE OF BRACKISHWATER AQUACULTURE,
NO.75, SANTHOME HIGH ROAD,
MRC NAGAR, CHENNAI-28.

8 MR.V.DAKSHINAMOORTHY, I.A.S.,
THE MEMBER, DIRECTOR OF AGRICULTURE,
AGRICULTURE DIRECTORATE,
CHEPAUK, CHENNAI-5.

9 DR.N.SUBBIAN I.A.S.,
THE MEMBER DIRECTOR OF HORTICULTURE AND
PLANTATION CROPS, DIRECTORATE OF
HORTICULTURE AND PLANTATION CROPS, 3RD FLOOR
AGRICULTURE COMPLEX, EZHILAGAM,
CHEPAUK, CHENNAI - 600 005.

10 DR.L. PUGALENDI PHD.,
THE MEMBER, DEAN (HORTICULTURE),
TNAU, LAWLEY ROAD, COIMBATORE.



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11 DR.M.KALYANASUNDARAM PHD.,
THE MEMBER SECRETARY, DEAN (AGRI) COLLEGE,
TNAU, LAWLEY ROAD, COIMBATORE.

... RESPONDENTS IN WP.NOS.17933, 17963, 19056 OF 2020
AND WP.NO.855 OF 2021

M/S.VANAVARAYAR INSTITUTE OF AGRICULTURE,
REP BY ITS MANAGEMENT COMMITTEE, MEMBER
T.RAJKUMAR, S/O.T.A.KRISHNASWAMY,
MANAKKADAVU, POLLACHI- 642 103.

... PETITIONER in WP No.18526 of 2020

M/S.JSA COLLEGE OF AGRICULTURE AND TECHNOLOGY
REP BY ITS SECRETARY DR.J.S.A.ARUN,
S/O.DR.K.JAYARAMAN, NO.279/1,
5TH CROSS, PERIYASAMY NAGAR, FAIRLANDS,
SALEM 630 016.

... PETITIONER in WP No.18783 of 2020

M/S.SRS INSTITUTE OF AGRICULTURE AND TECHNOLOGY,
REP BY ITS CHAIRPERSON MRS.K.KALYANASUNDARI,
SRS INSTITUTE OF AGRICULTURE AND TECHNOLOGY,
VADASANDUR-624 710.

... PETITIONER in WP No.14 of 2021

M/S.KUMARAGURU INSTITUTE OF AGRICULTURE
REP ITS BY CORRESPONDENT MR.G. MUNIASAMY,
S/O. MR. K. GURUSAMY,
SATHYATHANI-BHAVANI MAIN ROAD,
SAKTHI NAGAR, ERODE DISTRICT.

... PETITIONER in WP No.408 of 2021

-VS-

- 1 STATE OF TAMIL NADU,
REP BY ITS SECRETARY TO GOVERNMENT
AGRICULTURE (AU) DEPARTMENT, FORT ST. GEORGE,
SECRETARIAT, CHENNAI-600 009.
- 2 THE REGISTRAR,
AGRICULTURAL COLLEGE AND RESEARCH INSTITUTE,
THE TAMIL NADU AGRICULTURE UNIVERSITY,
COIMBATORE- 641 003.



3

THE MEMBER SECRETARY
AGRICULTURAL EDUCATION FEE FIXATION COMMITTEE,
DEAN AGRICULTURAL COLLEGE AND RESEARCH INSTITUTE,
TAMIL NADU AGRICULTURAL UNIVERSITY,
COIMBATORE - 641 003.

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... RESPONDENTS in WP Nos.18783,18526 of 2020
AND WP.Nos.14 & 408 OF 2021

PRAYER:-

WP Nos.17933, 17963, 19056 of 2020:

Writ Petition filed under Article 226 of the Constitution of India, Calling for the records pertaining to the Impugned Government order made in G.O.MS NO 4 Agriculture (AU) Department dated 7.1.2020 and consequential order made in G.O. (MS) NO 233 Agriculture (AU) department dated 8.10.2020 passed by the 1st Respondent and quash the same so far as the Petitioner college is concerned and further direct the respondents to permit the petitioner college to collect a sum or Rs 2,00,000/- as the overall fee per annum (2 semesters) per student.

WP No.18526 of 2020:

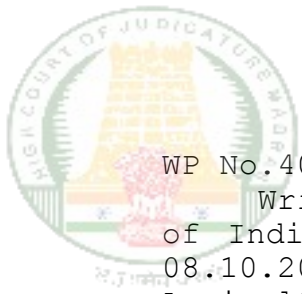
Writ Petition filed under Article 226 of the Constitution of India, calling for the records relating to the Order dated 08.10.2020 of the 1st Respondent herein in G.O.Ms.No.233 Agriculture (AU) Department and quash the same and consequent direct the respondent to fix a sum of Rs.2,00,000/- towards tuition fees.

WP No.18783 of 2020:

Writ Petition filed under Article 226 of the Constitution of India, calling for the records relating to the order dated 8.10.2020 of the 1st Respondent herein in G.O.Ms.No.233 Agriculture (AU) Department and quash the same and consequently direct the Respondents to fix a sum of Rs.2,25,000/- towards tuition fees or category I (Government quota) and category II (Management Quota) to accommodate to expenses of self-finance Institution

WP No.14 of 2021:

Writ Petition filed under Article 226 of the Constitution of India, calling for the records relating to the order dated 8.10.2020 of the 1st Respondent herein in G.O.Ms.No.233 Agriculture (AU) Department and quash the same and consequently direct the Respondents to fix a sum of Rs.2,00,000/- towards tuition fees or category I (Government quota) and category II (Management quota) to accommodate to expenses of self-finance institution.



WP No.408 of 2021:

Writ Petition filed under Article 226 of the Constitution of India, Calling for the records relating to the order dated 08.10.2020 of the 1st Respondent herein in G. O. Ms. No. 233 Agriculture (AU) Department and quash the same and consequently direct the Respondents to fix a sum of Rs. 2,00,000 towards tuition fees and pass such further or other orders as this Honourable Court may deem fit.

WP No.855 of 2021

Writ Petition filed under Article 226 of the Constitution of India, calling for the records pertaining to the impugned Government order made in G.O(Ms)No.4 Agriculture (AU) Department dated 7.1.2020 and consequential order made in G.O.(MS)No.233 Agriculture (AU) Department dated 8.10.2020 passed by the 1st respondent and quash the same in so far as the petitioner college is concerned and further direct the respondents to permit the petitioner college to collect a sum of Rs.2,43,000/- as the overall fee per annum (2 semesters) per student.

For Petitioners : Mr.Issac Mohanlal, Senior Counsel,
for M/s.Isaac Chambers
in WP.Nos.17933, 17963, 19056 of 2020
and WP.No.855 of 2021

: Mr.A.R.L.Sundaresan, Senior Counsel,
for A.L.Ganthimathi
in WP.Nos.18783, 18526 of 2020
and WP.Nos.408, 14 of 2021

For Respondents : Mr.V.Jayaprakashnarayanan,
State Government Pleader for R1
in WP.Nos.17933, 17963, 18783, 19056,
18526 of 2020
and WP.Nos.408, 14, 855 of 2021

Mr.Vijay Narayan, Advocate General
Assisted by
Mr.Abdul Saleem, Standing Counsel for R2
in WP.Nos.17933, 17963, 18783, 19056,
18526 of 2020 and WP.Nos.408, 14,
855 of 2021

R3 : No Appearance
in WP.Nos.18526, 18783 of 2020
and WP.Nos.408, 14 of 2021

R3 to R11 : No Appearance
in WP.Nos.17933, 17963,
19056 of 2020 and WP.No.855 of 2021



COMMON ORDER

WEB COPY The petitioners before this Court are private colleges of Agriculture and allied subjects and they are aggrieved by the fees fixed by the Fee Fixation Committee. Therefore, they have filed these writ petitions challenging, among other things, the very constitution of the Committee in G.O.Ms.No.4, Agriculture (AU) Department, dated 07.01.2020; the report of the Committee; and the Government Order in G.O.Ms.No.233, Agriculture (AU) Department, dated 08.10.2020 accepting the Committee's report and fixing a sum of Rs.50,000/- as overall fee per year.

2.The Hon'ble Supreme Court, in the decision in (2003) 6 SCC 697 [Islamic Academy of Education & Another v. State of Karnataka & Others], has directed the respective State Governments to constitute a Committee headed by a retired High Court Judge, who shall be nominated by the Chief Justice of that State, for the purpose of fixing the fee. Accordingly, on the recommendation of the then Hon'ble Chief Justice of the Madras High Court, the Government, vide G.O.Ms.No.4, Agriculture (AU) Department, dated 07.01.2020, has constituted a Committee under the Chairmanship of Hon'ble Mr.Justice K.Chandru, Retired Judge of this Court. The Committee consists of eight Members, apart from the Chairman. As per the directions in Islamic Academy of Education's case (supra), the Chairman has nominated one Mr.V.Ravichandran, F.C.A., a Chartered Accountant of repute, as a Member of the Committee.

3.The functions of the Committee on Fixation of Fee was prescribed by the Government vide G.O.Ms.No.202, Agriculture (AU) Department, dated 02.09.2020, as follows:-

"3.The functions of the Committee on Fixation of Fee shall be as follows:-

(a) The Committee shall call for, from each affiliated college and each affiliated institution must place before this Committee its proposed fee structure well in advance, before the date of issue of notification of the Academic Year, along with all relevant documents and books of accounts for scrutiny including the expenditure statements on major heads such as salaries and allowances including Provident Fund (Teaching, Non-Teaching and administration, Welfare, Expenses, Electricity charges, Telephone, Postage, Internet, Equipment purchase, Books & periodicals, Printing & stationery, Consumable, Research and Development, University Affiliation fees and Inspection charges, Sports, Games, Meetings and Functions, Awards, Merit Scholarships, Travelling and conveyance, Repairs and



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Maintenance, Depreciation, Advertisement, Miscellaneous expenditure and average expenditure per student);

(b) The Committee shall decide whether the fees proposed by the institutions is justified and they are not profiteering or charging capitation fee;

(c) The Committee shall be at liberty to approve the fee structure or to propose some other fee to be charged by the institute as it deems fit;

(d) The fee approved by the Committee shall be binding for a period of three years and at the end of that period, the institute would be at liberty to apply for revision. Once fee is fixed by the Committee, the institute cannot charge either directly or indirectly any other amount over and above the amount fixed as fees. If any other amount is charged, under any other head or guise, eg., donations, the same would amount to charging of capitation fee;

(e) The fee to be fixed by the Committee may be an all inclusive annual fee including various fee like Tuition fee, Admission fee, Special fee, Laboratory / Computer / Internet fee, Library fee, Sports fee, Placement and Training fee, Maintenance and Amenities fee, Extra curricular activities fee and other recurring expenditure;

(f) In addition to the above fee, the institution may be permitted to collect an amount of Rs.5,000/- (Rupees Five Thousand only) per student as development fee;

(g) In addition to the above recurring annual fee, the affiliated college may be permitted to collect a refundable one time caution deposit not exceeding Rs.5,000/- (Rupees Five Thousand only) per student at the time of admission, to be refunded at the time of the student leaving the institution;

(h) It may be made clear that the fee to be fixed by the Committee is the maximum fee which is to be charged by the college. It is open to the college to charge lesser fee than the fee fixed by the Committee;

(i) If any institution seeks revision of the fee fixed, it is always open to the said institution to apply for revision of fee to the Committee along with relevant records and books of accounts to the Committee;

(j) The management of the affiliated college may be directed to cover all the students under the Students Group Insurance Scheme;

(k) The above fee does not include Hostel, Transport and Mess charges;

(l) The Committee may recommend to the college to consider granting of partial waiver concession of Rs.5,000/- (Rupees Five Thousand only) per annum in case



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of deserving meritorious students;

(m) The Committee may direct the college that it shall not collect or levy any other recurring or non-recurring fee including capitation fee;

(n) The Committee may also indicate in the order that any deviation of the order of the committee would entail serious penal consequence like withdrawal of affiliation by the Tamil Nadu Agricultural University as well as imposition of appropriate fine; and

(o) Any student / parent aggrieved by the overcharging of fees, if any, by the college is at liberty to approach the Committee for redressal."

4. The Committee, after due deliberations and considerations, has made the following recommendations:-

"(i) The Committee fixes a fee of Rs.50,000/- per annum (Two Semesters) as a overall fee which includes tuition fee and all other fees in respect of all students whether selected through counselling or admitted through management quota. It is also made clear that no other fee of any kind shall be collected from the students.

(ii) The students will be given the option of paying the amount of Rs.50,000/- either for the whole year or in two installments one payment for each semester.

(iii) If the fee fixed as Rs.50,000/- is now calculated as an income in respect of a private college having the students strength of 120 students (as per the calculation made above), the colleges will get for each year a sum of Rs.60 lakh and the private colleges cannot make any profit / surplus of any kind. The committee consider this is a fair fee especially taking note of the family circumstances of the students who apply for the UG agricultural courses and their economic conditions.

(iv) The above fee fixed by the Committee is subject to the fee concession shown by the State Government and the orders issued in respect of first graduate in the family, Scheduled Caste / Scheduled Tribe will continue.

(v) The Committee has also recommended apart from the fee fixed per annum, a one time fee of Rs.5000/- towards caution deposit which should be refunded at the time when the student leaves the institution.

(vi) It is also made clear that other than the fee and the caution deposit, no other fee of any kind shall be collected."

5. The Government, after careful consideration, decided to accept the recommendations of the Committee and has passed G.O.Ms.No.233, Agriculture (AU) Department, dated 08.10.2020, as follows:-

"6.(i) A fee of Rs.50,000/- (Rupees



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Fifty Thousand only) per annum (Two Semesters) be fixed as overall fee which includes tuition fee and all other fees in respect of students who are selected either through counselling or admitted through management quota in private colleges imparting agricultural and allied sciences which are affiliated to the Tamil Nadu Agricultural University.

(ii) The students shall be allowed to opt for paying the amount of Rs.50,000/- either for the whole year or in two installments, one payment for each semester.

(iii) The above fee is subject to the fee concession given by the State Government and the orders issued in respect of First Graduate in family, Scheduled Caste / Scheduled Tribe will continue.

(iv) The affiliated private colleges shall be allowed to collect a one time fee of Rs.5000/- (Rupees Five Thousand only) towards caution deposit apart from the fee fixed per annum, which should be refunded at the time when the student leaves the institution.

(v) It is made clear that other than the fee and the caution deposit, no other fee of any kind shall be collected."

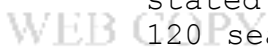
6. Attacking this order, respective learned Senior Counsel appearing for the petitioners, in unison, have made the following submissions:-

6.1. The Hon'ble Supreme Court, in Islamic Academy of Education's case (supra), has laid down a condition to the effect that the number of members of the Committee should not exceed five. But the Government, without adherence to the same, has constituted the Committee by appointing nine members and therefore, the very constitution of the Committee is flawed.

6.2. The Committee has not provided any opportunity of physical hearing to the petitioners to put forth their case. Citing the pandemic and the lock-down, the Committee has dispensed with the physical hearing. The Committee ought to have convened the meeting through video conference and the Committee, being a quasi judicial authority, ought to have afforded personal hearing to the petitioners' colleges, at least once.

6.3. The Committee has exceeded its power by unduly interfering in the Administrative and Financial matters of the unaided private professional institutions and therefore, the decision of the Committee, being quasi judicial body, is subject to judicial review, as per the decision of the Hon'ble Supreme Court in the decision in 2005 (6) SCC 537 [P.A. Inamdhar & Others v. State of Maharashtra & Others].

6.4. As per the decision in Inamdhar's case (supra), there should not be generalization of fee for all colleges and it must always be institutional. The infrastructure and facilities available, investments made, salary paid to the teaching staff,



6.5. The Committee, by fixing the fee as Rs.50,000/-, has stated that the colleges will get a sum of Rs.60,00,000/-, for 120 seats, each year. But all the colleges in the State are not having the sanctioned strength of 120 seats and it varies from 75 to 120. Therefore, the calculation arrived by the Committee is arbitrary.

6.7. The Committee has exceeded its jurisdiction and gave findings without any substance.

7. In reply, learned Advocate General assisted by learned Special Government Pleader appearing for the first respondent, by relying upon the counter affidavit, has made his submissions as follows:-

7.2.The Committee, after its constitution, initially proposed to conduct physical hearing. However, in view of the pandemic and the continuous lock-down announced by the Government from 22.03.2020, a meeting was convened to discuss the modalities, wherein, it was decided to dispense with the physical hearing. However, a detailed and exhaustive questionnaire, in consultation with the members and Chartered Accountant expert, was prepared and circulated to all the colleges affiliated to Tamil Nadu Agricultural University (hereinafter referred to as TNAU) and the colleges were requested to submit their response to the questionnaire.

<https://hcservices.ecourts.gov.in/hcservices/>



responses received from the colleges were individually scrutinized by the Chartered Accountant and Expert and a detailed analysis was made with regard to the income expenditure incurred by each of the colleges.

7.4. Initially, the Committee has also planned to conduct a public hearing at Coimbatore to hear the views of Institutions, Students, Parents and Educationists. However, in view of the pandemic and the continuous lock-down, it was decided to hear the objections through e-mail or post. Advertisements to this effect were made on 26.07.2020 in the 'Indian Express' and 'Dinamani'. As many as 363 responses were received and the Committee has considered each one of them.

7.5. The Committee, considering the overall circumstances, responses from the colleges, financial statements, responses from students, parents and educationalists, has fixed the fees as Rs.50,000/- per year, after analyzing the available infrastructure of all colleges, in detail. The Committee has also recommended for the collection of Rs.5000/- towards refundable caution deposit.

7.6. Insofar as the exceeding the jurisdiction is concerned, the recommendations of the Committee in Clause 9 & 10 of the report have not been culminated into any order and the same is only a recommendation under consideration of the Government, as such, challenge on this ground is premature and liable to be rejected.

7.7. In the Government Order in G.O.Ms.No.202, Agriculture (AU) Department, dated 02.09.2020, in Clause 3(i), it has been mentioned that the institutions, if aggrieved by the fee fixed, shall apply for revision of fee before the Committee along with relevant records and books. Therefore, there is an effective alternative remedy to the petitioners.

8. This Court paid it's anxious consideration to the rival submissions made and also perused the documents placed on record.

9. The issue before this Court is with regard to the fee fixed by the Committee, which was approved and accepted by the Government. The Committee was appointed based on the verdict of the Hon'ble Supreme Court in Isalmic Academy of Education's case (supra). Before proceeding with the matter, this Court would like to remind about the latest verdict of the Hon'ble Supreme Court in 2019 (7) SCC 172 [Vasavi Engineering College Parents Association v. State of Telangana and Others], wherein, it was held as follows:-

"17. Judicial review, as is well known, lies against the decision making process and not the merits of the decision itself. If the decision making process is flawed inter alia by violation of the basic principles of natural justice, is ultravires the powers of the decision maker, takes into consideration irrelevant materials or



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excludes relevant materials, admits materials behind the back of the person to be affected or is such that no reasonable person would have taken such a decision in the circumstances, the court may step in to correct the error by setting aside such decision and requiring the decision maker to take a fresh decision in accordance with the law. The court, in the garb of judicial review, cannot usurp the jurisdiction of the decision maker and make the decision itself. Neither can it act as an appellate authority of the TFARC."

10.The order of fixation is passed by an expert body and as such, the decision is not amenable to judicial review, unless the same is full of arbitrariness, irrational, perverse or violates any provisions of law.

11.The main ground raised by the petitioners is that the Committee has fixed the fee, without affording an opportunity of physical hearing to them. The Committee was constituted in the month of January, 2020 and the pandemic Covid-19 started playing havoc, in the world by then. Consequently, the Government has announced continuous lock-down, during which period, the entire Government machinery came to a standstill, excepting the essential sector. Therefore, the Committee could not be found fault with for dispensing with the physical hearing. As the pandemic and the lock-down persisted, the concept of video-conference was explored for the first time and in fact, the Government was a Toddler at that point of time. Therefore, the Committee could not be found fault with for not conducting the hearing via video-conference.

12.This Court, in the decision in 2020 SCC OnLine Mad 1442 [Arokia Madha Matriculation Higher Secondary School & Others v. Chief Secretary to Government of Tamil Nadu & Others], while issuing directions with regard to payment of fee in installments and other issues, has issued the following direction:-

"[f] The fee Committee shall immediately start the process of determining the tuition fees for the respective institutions and make an attempt to complete the process within a period of eight months starting from August 2020 onwards."

13.Since the academic year was fast approaching and in view of the aforesaid direction of this Court, the Committee could not wait for years together for the situation to become normal



and therefore, they have proceeded further. At the same time, the Committee has not fixed the fee without providing any opportunity to the stakeholders. In consultation with the members and expert, the Committee has prepared a questionnaire and circulated the same to all the colleges, calling for the details, proposals, among other things. Excepting five colleges, all the remaining colleges have provided the details sought for, which were scrutinized by the Committee. Apart from that, the Committee has also made advertisements in two dailies, calling for opinions from the general public, students, parents, educationalists, which were also received and considered. Therefore, it cannot be said that the Committee has fixed the fee, unilaterally, without providing any opportunity to the stakeholders.

14. The next ground raised by the petitioners is that as per the decision in Inamdhar's case (supra), there should not be generalization of fee for all colleges and that it must be institutional. That apart, fixing the same fee for both Government quota and Management quota is not proper. The Hon'ble Supreme Court, in the decision in 2009 (7) SCC 751 [Modern Dental College and Research Centre v. State of M.P], after considering the decision in Islamic Academy Education's case (supra) and Inamdhar's case (supra), has held as follows:-

"Having regard to the principles laid down in TMA Pai Foundation, Islamic Academy Education and Inamdhar whereby the previous Scheme in Unni Krishnan was held to be unconstitutional, insofar as private unaided professional educational institutions are concerned, the question of two fee structures - one for the 'State quota' students and one for the 'management quota' students does not arise.

... .. There can therefore be only one fee structure for all students of a private unaided professional educational institution."

15. Therefore, the Committee could not be found fault with for having fixed the same fee for both the Government quota and Management quota. From the report of the Committee, it also appears that the infrastructure, size, activities of all the colleges were analyzed independently and then only, the Committee have taken the decision. Therefore, it cannot be held that generalized fee has been fixed for all the institutions.

16. It appears that the Committee has rejected the petitioners' request to have a comparison with the constituent colleges, for the reason that the budgetary expenditure of constituent colleges, funded by the University through State



aid, far exceeds the budget provided by the affiliated private colleges. This Court is in agreement with the stand taken by the Committee, in this regard.

17.The petitioners have taken yet another ground that the colleges in the State are having sanctioned strength varying from 75 to 120 seats and therefore, the calculation made by the Committee by fixing 120 seats for all the colleges is arbitrary. Though the petitioners have made such a ground, on a perusal of records, it appears that the petitioners before this Court are having sanctioned strength varying from 100 to 120 seats. There are 28 private affiliated colleges in the State and only eight colleges (petitioners) are before this Court, meaning thereby, the rest of the colleges, which are having the sanctioned strength of 75 seats, have accepted the report of the Committee. Therefore, this Court is not inclined to entertain these writ petitions on this ground.

18.With regard to the alternative remedy available as per Clause 3(i) of the Government Order in G.O.Ms.No.202, Agriculture (AU) Department, dated 02.09.2020, ie., revision before the Committee if aggrieved by the fee fixed, respective learned Senior Counsel for the petitioners contended that Clause 3(d) of the said Government Order reads that the fee approved by the Committee shall be binding for a period of three years and only after that period, they are entitled for applying for revision. For better appreciation, Clauses 3(d) & 3(i) are extracted as under:-

"3(d) - The fee approved by the Committee shall be binding for a period of three years and at the end of that period, the institute would be at liberty to apply for revision. Once fee is fixed by the Committee, the institute cannot charge either directly or indirectly any other amount over and above the amount fixed as fees. If any other amount is charged, under any other head or guise eg., donations, the same would amount to charging of capitation fee."

"3(i) - If any institution seeks revision of the fee fixed, it is always open to the said institution to apply for revision of fee to the Committee along with relevant records and books of accounts to the Committee."

19.From the above, it is clear that Clause (d) states that the amount fixed would be binding for a period of three years and thereafter, the institute can apply for revision of fee, whereas, Clause (i) states that if the institute is aggrieved by the fee fixed by the Committee, they can very well apply for revision before the Committee along with relevant records.



Therefore, this Court is of the opinion that remedy is always open for the petitioners college to appear before the Committee by way of revision, along with relevant records. In fact, such is the stand taken by the Government in its counter-affidavit. When there is an alternative remedy, it is for the petitioners to exhaust the same, before invoking the extra ordinary jurisdiction of this Court.

20. In view of the foregoing discussions and reasonings, this Court is not inclined to interfere with the impugned orders. The writ petitions fail and accordingly, all of them are dismissed. The petitioners are at liberty to approach the Committee by way of revision, as per Clause 3(i) of the Government Order in G.O.Ms.No.202, Agriculture (AU) Department, dated 02.09.2020, along with relevant records, if so advised. There shall be no order as to costs. Interim orders already granted are hereby vacated and all the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-VII)

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Sub Assistant Registrar

mrm/gk

To

1. The Agricultural Production Commissioner and
Principal Secretary to Government,
State of Tamil Nadu,
Secretariat, Fort St. George,
Chennai - 600 009.
2. The Registrar,
Tamil Nadu Agricultural University,
Lawley Road,
Coimbatore.
3. The Chairman,
Committee on fixation of fee in respect of Private
Colleges of Agriculture and Allied Subjects
Affiliated to Tamil Nadu,
No.3, Basement, Justice Sundaram Road,
Mylapore, Chennai.



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4. The Registrar,
Agricultural College and Research Institute,
Tamil Nadu, Agricultural University,
Coimbatore - 641 003.

5. The Member Secretary,
Agricultural Education Fee Fixation Committee,
Dean Agricultural College and Research Institute,
Tamil Nadu Agricultural University,
Coimbatore - 641 003.

+1cc to M/s.Isaac Chambers, Advocate, S.R.No.30136

W.P.Nos.17933, 17963, 18526, 18783,
19056 of 2020 and
W.P.Nos.14, 408, 855 of 2021

SRA(CO)
SU(25/05/2022)