

**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

**1. RSA No.3374 of 2019 (O&M)**

Apeejay School

... Appellant

Versus

Ayushman Garg & another

... Respondents

**2. RSA No.3375 of 2019 (O&M)**

Apeejay School

... Appellant

Versus

Vikrant Malhotra & another

... Respondents

**3. RSA No.3384 of 2019 (O&M)**

Apeejay School

... Appellant

Versus

Arpit Oberoi & another

... Respondents

**4. RSA No.3393 of 2019 (O&M)**

Apeejay School

... Appellant

Versus

Saniya Fatima & another

... Respondents

**5. RSA No.3396 of 2019 (O&M)**

Apeejay School

... Appellant

Versus

Ansh Tyagi & another

... Respondents

**6. RSA No.3399 of 2019 (O&M)**

Apeejay School

... Appellant

Versus

Akshat Saxena & another

... Respondents

**7. RSA No.3402 of 2019 (O&M)**

Apeejay School

... Appellant

Versus

Divyansh Kansal & another

... Respondents

- 8. RSA No.3442 of 2019 (O&M)**
- Apeejay School ... Appellant
- Versus
- Anirudh Aggarwal & another ... Respondents
- 9. RSA No.3443 of 2019 (O&M)**
- Apeejay School ... Appellant
- Versus
- Chirag Shangle & another ... Respondents
- 10. RSA No.3447 of 2019 (O&M)**
- Apeejay School ... Appellant
- Versus
- Agrima Aggarwal & another ... Respondents
- 11. RSA No.3495 of 2019 (O&M)**
- Apeejay School ... Appellant
- Versus
- Akriti Gupta & another ... Respondents
- 12. RSA No.3496 of 2019 (O&M)**
- Apeejay School ... Appellant
- Versus
- Dhriti Duggal & another ... Respondents
- 13. RSA No.3497 of 2019 (O&M)**
- Apeejay School ... Appellant
- Versus
- Dhaarna Sehgal & another ... Respondents
- 14. RSA No.3498 of 2019 (O&M)**
- Apeejay School ... Appellant
- Versus
- Urvi Gupta & another ... Respondents

15.       **RSA No.3507 of 2019 (O&M)**  
Apeejay School  
... Appellant  
Versus  
Prajval Singh Tomar & another  
... Respondents
16.       **RSA No.3508 of 2019 (O&M)**  
Apeejay School  
... Appellant  
Versus  
Shubham Tanwar & another  
... Respondents
17.       **RSA No.3509 of 2019 (O&M)**  
Apeejay School  
... Appellant  
Versus  
Ria Bhatia & another  
... Respondents
18.       **RSA No.3510 of 2019 (O&M)**  
Apeejay School  
... Appellant  
Versus  
Saumya Gupta & another  
... Respondents
19.       **RSA No.3511 of 2019 (O&M)**  
Apeejay School  
... Appellant  
Versus  
Aareshea Malhotra & another  
... Respondents
20.       **RSA No.3594 of 2019 (O&M)**  
Apeejay School  
... Appellant  
Versus  
Abhijeet Singh Sandhu & another  
... Respondents
21.       **RSA No.3595 of 2019 (O&M)**  
Apeejay School  
... Appellant  
Versus  
Samad Ali & another  
... Respondents

- 22. RSA No.3596 of 2019 (O&M)**
- Apeejay School ... Appellant
- Versus
- Rishabh Sachdeva & another ... Respondents
- 23. RSA No.3597 of 2019 (O&M)**
- Apeejay School ... Appellant
- Versus
- Sanskriti Garg & another ... Respondents
- 24. RSA No.3598 of 2019 (O&M)**
- Apeejay School ... Appellant
- Versus
- Anusha Chhabra & another ... Respondents
- 25. RSA No.3599 of 2019 (O&M)**
- Apeejay School ... Appellant
- Versus
- Dhriti Gupta & another ... Respondents
- 26. RSA No.3601 of 2019 (O&M)**
- Apeejay School ... Appellant
- Versus
- Puneet Kaur & another ... Respondents
- 27. RSA No.3602 of 2019 (O&M)**
- Apeejay School ... Appellant
- Versus
- Mohd. Asim Jafri & another ... Respondents
- 28. RSA No.3611 of 2019 (O&M)**
- Apeejay School ... Appellant
- Versus
- Sarang Gandhi & another ... Respondents

- 29. RSA No.3612 of 2019 (O&M)**
- Apeejay School ... Appellant
- Versus
- Jayesh Pant & another ... Respondents
- 30. RSA No.3714 of 2019 (O&M)**
- Apeejay School ... Appellant
- Versus
- Naman Kansal & another ... Respondents
- 31. RSA No.3715 of 2019 (O&M)**
- Apeejay School ... Appellant
- Versus
- Yathesht Pajni & another ... Respondents
- 32. RSA No.3381 of 2019 (O&M)**
- Divyansh Kansal & another ... Appellants
- Versus
- Apeejay School ... Respondent
- 33. RSA No.3432 of 2019 (O&M)**
- Naman Kansal & another ... Appellants
- Versus
- Apeejay School ... Respondent
- 34. RSA No.3433 of 2019 (O&M)**
- Saniya Fatima & another ... Appellants
- Versus
- Apeejay School ... Respondent
- 35. RSA No.3440 of 2019 (O&M)**
- Mohd. Asim Jafri & another ... Appellants
- Versus
- Apeejay School ... Respondent

- 36. RSA No.3609 of 2019 (O&M)**
- Jayesh Pant & another ... Appellants
- Versus
- Apeejay School ... Respondent
- 37. RSA No.3610 of 2019 (O&M)**
- Dhriti Duggal & another ... Appellants
- Versus
- Apeejay School ... Respondent
- 38. RSA No.3765 of 2019 (O&M)**
- Agrima Aggarwal & another ... Appellants
- Versus
- Apeejay School ... Respondent
- 39. RSA No.4643 of 2019 (O&M)**
- Isheta Kapoor & another ... Appellants
- Versus
- Apeejay School ... Respondent
- 40. RSA No.4653 of 2019 (O&M)**
- Tripti Sharma & another ... Appellants
- Versus
- Apeejay School ... Respondent
- 41. RSA No.5744 of 2019 (O&M)**
- Sumiran Pullan & another ... Appellants
- Versus
- Apeejay School ... Respondent
- 42. RSA No.5745 of 2019 (O&M)**
- Drisha Sehgal & another ... Appellants
- Versus
- Apeejay School ... Respondent

- 43. RSA No.5758 of 2019 (O&M)**
- Aarushi Dhillon & another ... Appellants
- Versus
- Apeejay School ... Respondent
- 44. RSA No.94 of 2020 (O&M)**
- Aditi Bansal & another ... Appellants
- Versus
- Apeejay School ... Respondent
- 45. RSA No.176 of 2021 (O&M)**
- Taarak Duggal & another ... Appellants
- Versus
- Apeejay School ... Respondent
- 46. RSA No.202 of 2021 (O&M)**
- Riya Bhatia & another ... Appellants
- Versus
- Apeejay School ... Respondent
- 47. RSA No.203 of 2021 (O&M)**
- Hirday Bhardwaj & another ... Appellants
- Versus
- Apeejay School ... Respondent
- 48. RSA No.204 of 2021 (O&M)**
- Aryan Mishra & another ... Appellants
- Versus
- Apeejay School ... Respondent
- 49. RSA No.205 of 2021 (O&M)**
- Lakshita Ratra & another ... Appellants
- Versus
- Apeejay School ... Respondent

- 50. RSA No.206 of 2021 (O&M)**  
Chaitanya Madhura & another  
... Appellants  
Versus  
Apeejay School  
... Respondent
- 51. RSA No.211 of 2021 (O&M)**  
Manav Arora & another  
... Appellants  
Versus  
Apeejay School  
... Respondent
- 52. RSA No.212 of 2021 (O&M)**  
Hiteshita Ratra & another  
... Appellants  
Versus  
Apeejay School  
... Respondent
- 53. RSA No.231 of 2021 (O&M)**  
Parv Nage & another  
... Appellants  
Versus  
Apeejay School  
... Respondent
- 54. RSA No.237 of 2021 (O&M)**  
Anya Vashisht & another  
... Appellants  
Versus  
Apeejay School  
... Respondent
- 55. RSA No.243 of 2021 (O&M)**  
Avni Vasisht & another  
... Appellants  
Versus  
Apeejay School  
... Respondent
- 56. RSA No.311 of 2021 (O&M)**  
Shrestha Chaturvedi & another  
... Appellants  
Versus  
Apeejay School  
... Respondent

**57. RSA No.314 of 2021 (O&M)**  
Danya Arora & another  
... Appellants  
Versus  
Apeejay School  
... Respondent

**58. RSA No.320 of 2021 (O&M)**  
Aditi Jain & another  
... Appellants  
Versus  
Apeejay School  
... Respondent

Date of decision: 15<sup>th</sup> March, 2022

**CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH**

Present: Mr. H.L. Tiku and Mr. Sumeet Goel, Senior Advocates with  
Mr. Manav Bajaj, Advocate for the plaintiff/School.  
Mr. Balkar Singh, Advocate for the defendant/students.

**FATEH DEEP SINGH, J.**

Through this judgment shall stand disposed off the above detailed 58 regular second appeals (31 filed by Apeejay School and remaining 27 appeals by the students) as on account of consanguinity and interconnectivity of the matters can be easily disposed off together by a common judgment. The undisplaced factual scenario is that a dispute had arisen between the Apeejay School, Faridabad plaintiff in all the cases and the defendant students of the said school over fee structure.

The Apeejay School (in short, 'the School') is a private unaided recognized school being run under the name and style of Apeejay School, Faridabad imparting education to the general public and for which they charge their remuneration. It is during the academic year

2009-10 the School authorities had enhanced the fees and which ignited the present dispute with the students along with their parents on one hand and the School authorities on the other. Certain students because of the opposition did not pay the enhanced charges while certain others paid the amount in installments and that is how the School authorities have filed these suits for recovery of the amount along with interest @ 12 % per annum against the students.

For the sake of convenience, facts are being adduced from RSA No.3374 of 2019 filed by the School wherein before the trial Court the plaintiff School to justify fee enhancement examined Arvinder Singh Bhatti, Office Superintendent as PW-1 and Ms.Sadhna Rani, Accountant as PW-2 and proved documents Ex.P1/1 to Ex.P1/6 and Ex.P2/1 to Ex.P2/4. On the other hand, defendants examined Rahul Garg (father of a student) as DW-1 through his affidavit Ex.DW1/A and after proving documents Ex.D1 to Ex.D25 and Mark-1 to Mark-15 closed the evidence.

The Court of learned Civil Judge (Junior Division), Faridabad vide judgment and decree dated 22.10.2018 decreed the suit of the School and which was assailed by the unsuccessful students by way of appeal and the Court of learned Additional District Judge, Faridabad vide impugned judgment and decree dated 27.03.2019 disposed off the appeal holding that the judgment and decree passed by the trial Court would be modified including the rate of interest and leaving the final outcome to the decision of the Fee and Fund Regulatory Committee (in

short, 'the Committee') established under the Haryana School Education Act, 1995 and Haryana School Education Rules, 2003. It is against these findings the present regular second appeals have been filed.

In view of the recent pronouncement in '**Kirodi (since deceased) through his LR vs. Ram Parkash & others**' Civil appeal **No.4988 of 2019; SLP(C) No.11527 of 2019 decided on 10.05.2019**, the Hon'ble Supreme Court has clearly held under Section 41 of the Punjab Courts Act, 1918 which has its application to the States of Punjab and Haryana, that there is no necessity of framing substantial question of law for disposal of an appeal.

Heard Mr. H.L. Tiku and Mr. Sumeet Goel, Senior Advocates assisted by Mr. Manav Bajaj, Advocate for the plaintiff/School; Mr. Balkar Singh, Advocate for the defendant/students and perused the records.

Appreciating the submissions of the two sides, the claim of the defendant students is that there has been exorbitant and unprecedented increase in the charges levied by the School authorities and who have stoutly denied the same taking the plea that it was commensurate with the price-index. The claim of unprecedented increase in fee structure and the subsidiary allowance by the School authorities especially by recognized unaided Schools has been subject matter of numerous litigations between the parties. In earlier Civil Writ Petition bearing No.11223 of 2009 titled '**Haryana Progressive Schools**

**Conference (Regd.) vs. State of Haryana & others'**, this Court in a Single Bench view dated 27.04.2011 observed as follows:-

*“An application for review of Modern School's case was also filed which was declined by making reference to the principle as enunciated in **T.M.A.Pai Foundation and Islamic Academy cases** (supra) for fixing fee structure which were found to have been illustrated. It is noticed that these principles did not deal with determination of surplus and a portion of savings. It was noticed that as per certain directions issued, every school was required to prepare a balance sheet and profit and loss account. Such condition was found to be of a nature which did not sub-plant the rule in this regard. It was observed that if reasonable fee structure is the test, then transparency and accountability are equally important. That is what the aim of Section 16(3) and 21(3) of the Act and Section 17 thereof alongwith other rules. The net result of the above discussion, thus, is that the impugned order putting a cap on the fixing of increase in the tuition fees not more than 20% is beyond the scope of statute as well as in violation of the law laid down by the Hon'ble Supreme Court. I would hasten to add here, however, that if the Director of School Education finds that the petitioner institutions are in any manner resorting to profiteering and have increased the fee for the purpose of commercialization or are charging the capitation fee, then the Director would certainly be in a competent position to issue direction to interfere in the charging of fee to the extent that it leads to commercialization/profitting etc. There has been no challenge to the right of the respondents to require of the petitioner institutions to submit yearly returns giving out*

*the details in form IV and that is well within the right of the respondents to ensure transparency and accountability. Mere asking of these reports would be meaningless ritual if it is construed that the Director would lack in power to issue any direction to check the profiting commercialization or charging of capitation fee. Mere right to interfere in fixing of fee structure without any finding that the institutions are resorting to charging of capitation fee or are indulging in profiteering or commercialization of the education would be unreasonable restriction on the right of these institutions to engage themselves in this occupation.*

*The writ petitions are accordingly allowed. The impugned order (Annexure P-1) is set-aside. However, liberty is given to the respondent-Director School Education to reconsider the entire issue and pass an appropriate order/directions in accordance with law as noted above. In case the Director finds that the present institutions are indulging in any commercialization, profiting or charging of capitation fee, then he would have authority to check and prevent the same by passing an appropriate order. There shall, however, be no order as to costs.”*

And which primarily was to oversee if there was any commercialization or profiteering by unaided institutions.

The order of Single Bench view of this Court was challenged by the State of Haryana in Letters Patent Appeal (LPA) bearing No.721 of 2012 titled **‘The State of Haryana and another vs. Haryana**

**Progressive Schools’ Conference and others’** wherein this Court passed the following order:-

*“Learned counsel for the appellants, after some arguments, fairly states that in view of the liberty granted to the Director School Education to re-consider the entire issue and pass an appropriate order/direction in accordance with law as per the operative paragraph of the impugned order dated 27.4.2011, the appellants will do the needful keeping in mind the parameters laid down by the Division Bench of this Court in Civil Writ Petition No. 20545 of 2009 titled as Anti-Corruption and Crime Investigation Cell Versus State of Punjab and others, decided on 9.4.2013. He thus, seeks disposal of the appeal in the aforesaid terms.*

*We accept the plea of the learned counsel for the appellants and dispose of the appeal in terms aforesaid.”*

Similarly in another writ petition bearing CWP No.20545 of 2009 titled ‘**Anti Corruption and Crime Investigation Cell vs. State of Punjab & others’** a Division Bench of this Court passed the following order on 09.04.2013:-

*“82. ... ... Till that is done and in order to sort out the issue as to whether the hike in fees by the schools is proper or not, we would like to follow the same path as done by the High Court of Delhi, namely, setting up a Committee with the task to go into the accounts of the Schools and find out the reasonableness of increase in fees by the schools. Accordingly, we appoint three committees, one each for the State of Punjab, State of Haryana and*

*Union Territory, Chandigarh, with the following constitutional members:-*

***FOR STATE OF PUNJAB:-***

- i) Hon'ble Mr. Justice Ranjit Singh (Retd.):  
Chairperson*
- ii) One Chartered Accountant to be nominated by  
the Chairperson of the Committee.*
- iii) One Member from the field of Education  
preferably a retired teacher/officer of eminence  
to be nominated by the Director of Public  
School Education Board.*

***FOR STATE OF HARYANA:-***

- i) Hon'ble Mrs. Justice Kiran Anand Lall (Retd.):  
Chairperson*
- ii) One Chartered Accountant to be nominated by  
the Chairperson of the Committee.*
- iii) One Member from the field of Education  
preferably a retired teacher/officer of eminence  
to be nominated by the Director of Public  
School Education Board.*

***FOR UNION TERRITORY CHANDIGARH:-***

- i) Hon'ble Mr. Justice R.S.Mongia (Retd. Chief  
Justice): Chairperson*
- ii) One Chartered Accountant to be nominated by  
the Chairperson of the Committee.*
- iii) One Member from the field of Education  
preferably a retired teacher/officer of eminence  
to be nominated by the Director of Public  
School Education Board, U.T. Chandigarh.*

XXXX XXXX XXXX XXXX  
XXXX XXXX XXXX XXXX

*Since the schools are submitting the accounts with the Boards, these accounts and records can be given by the Boards to the Committees. In addition all the schools shall also render full cooperation to the Committee(s) by submitting the Account and other necessary information demanded by the Committee(s). The scope of the work undertaken by the Committee(s) shall be restricted to the academic year 2012-13. Likewise, for the academic year 2013-14, though the schools shall have the right to fix their fees structure, they will have to justify the same by producing necessary material before the Committee(s). The Committee(s) shall be entitled to specifically look into the aspects as to how much fees increase was required by each individual school on the examination of records and accounts etc. of these schools and taking into consideration the funds available etc. at the disposal of the schools. While doing this exercise, it shall keep in mind the principles laid down by the Supreme Court in Modern School case (supra) as well as Action Committee Unaided Pvt. Schools case (supra) and other decision noted by us in this judgment. Needless to mention in case it is found that the fees hiked by the schools was more than warranted, the direction can be given to those schools to refund the same to the students.*

*All these writ petitions stand disposed of in terms of directions given hereinabove.”*

The primary observations and guidelines laid down by the Courts were to the effect that though the schools have a right to fix the

fee-structure but at the same time they will have to justify the same by leading supportive evidence and the Committee was empowered to ensure as to the extent by which there could be an increase in the fee-structure.

The present parties admittedly are governed by the Haryana School Education Act, 1995 (in short, 'the Act') and Haryana School Education Rules, 2003 (in short, 'the Rules'). The Act came into being with effect from 04.06.1999 while the Rules became operational from 30.04.2003. The primary object of these provisions was to administer and control the running of private unaided recognized schools, minority schools and matters relating thereto. Under Rule 158 of the Rules, it was mandatory that the fees and funds to be charged from the pupils shall be notified by every recognized school. These provisions read as follows:-

***“158. Notifying fees and funds [Sections 24(2), 15, 16 and 17] - (1) The fees and funds to be charged from the pupils shall be notified by every recognized school.***

***(2) The manager of every recognised school shall submit the detail of minimum facilities being provided and the maximum fee charged in Form VI. He shall before the commencement of each academic session, file with the Department a full statement of the fees and all types of funds levied by such school during the ensuing academic session justifying it. No such school shall charge any fee in excess of the fee/ funds specified by the manager in the said statement during the academic session. Each school shall submit proforma duly filled in by 1<sup>st</sup> January of every year***

*to the appropriate authority which shall publicly display these details. Such charges can only be levied after these have been displayed in its wamper.*

*(3) No other charges such as capitation fee shall be taken from the children/ parents.*

*(4) No school shall be allowed to charge admission fee, tuition fee, pupil's fund in advance before the commencement of the academic session. However a token registration fee can be charged.*

*(5) No admission fee, tuition fee except school leaving certificate (SLC) fee be charged from the pupil who apply for SLC within 15 days of start of new academic session.*

*(6) Admission fee shall only be charged from a student at the time of admission in class 1st, 6th, 9th and 11th or fresh entry in the school.*

*(7) The fees shall preferably be taken from the students through bank.”*

Further under Rule 158A of the Rules, provision for Fee and Fund Regulatory Committee was brought about with effect from 28.10.2014 and which is reproduced as follows:-

***“158A. Fee and Fund Regulatory Committee.- (1)***

*There shall be a committee to be known as Fee and Fund Regulatory Committee at the Divisional Level under the Chairmanship of Divisional Commissioner, who shall be assisted by the following officer/officials:-*

- (i) District Education Officer/District Elementary Education Officer (ex-officio*

*member) to be nominated by the Chairman.*

- (ii) a retired Accounts Officer/Chartered Accountant to be nominated by the Chairman on such terms and conditions, as may be approved by the Government.*

*(2) Where the Committee on receipt of any complaint or otherwise is satisfied after due enquiry, that a private school has charged capitation fee or fee in excess of the fee as notified by the school, it would ensure redressal of the complaint so received within a period of sixty days from the receipt of the complaint and it may.-*

- (i) direct the concerned institution to refund the capitation fee or fee in excess of the fee as notified by the school, as the case may be;*
- (ii) recommend withdrawal of the recognition/affiliation of the school and the Director shall pass the orders accordingly.*

*(3) Before taking any action or passing any order sub-rule (2) above, the committee shall provide a reasonable opportunity of being heard to such an institution.”*

Furthermore, to bring about semblance of justice, provision of appeal by way of Rule 158B was made which provided a right of appeal to any aggrieved person, school, management and so on and so

forth, and which was to be dealt-with by the Administrative Secretary of the State and which provision is reproduced herein below:-

*“158B. Appeal – Any person or school management aggrieved by any direction or order passed under rule 158A, may file an appeal to the Administrative Secretary within a period of thirty days from the date of such order.”*

During the course of arguments, learned counsel for the two sides fairly conceded that the Committee constituted under the orders of this Court passed in CWP No.20545 of 2009 stood automatically dissolved by virtue of incorporation of the Act and the Rules.

To the mind of this Court, it would not be appropriate for this Court to adjudicate these appeals when already statutory provisions have been put into place to deal with such eventualities. More so, what the Courts below have done is that the dispute has been treated more as a suit for recovery and like versa passed various judgments in all these matters. Even in the impugned findings before this Court, learned first appellate Court in spite of being fully aware of the provisions of the Act and the Rules has fallen into a grave error by drawing the analogy of a suit for recovery and adjudicated on the amount to be recovered and interest to be paid thereon rather than directing the parties to approach the Fee and Fund Regulatory Committee under the Act and the Rules. Thus, it would be in the fitness of things if all these impugned judgments and decrees are set aside and the parties to these appeals are relegated to avail of the remedy under the provisions of Rule 158 of the Rules, where they shall

file a complaint/representation or the Committee can suo-motu enquire about the charges being levied by the School under Sub-rule (2) of Rule 158A of the Rules and which Committee is empowered to order accordingly. Even otherwise, provisions of Section 22 of the Act specifically bar jurisdiction of Civil Court and which ensures that any authority which is especially empowered to deal under the Act and the Rules would be competent authority to act and no Civil Court shall have jurisdiction in respect of such matters in relation thereto and which has even been overlooked by the Courts below.

In the light of the same, parties to these appeals are directed to approach the said Fee and Fund Regulatory Committee within shortest possible time and further directing the said Committee that on receipt of complaint regarding the parties to these appeals, the same shall be preferably disposed off within one month keeping in view that academic career of the students is involved. All these appeals stand disposed off accordingly.

**(FATEH DEEP SINGH)**  
**JUDGE**

**March 15, 2022**

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|                           |        |
|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |