

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

1. CR-3297-2021
Date of decision : 20.07.2022

Vanika Gupta and another ...Petitioners

Versus

The S.D. Vidya School and othersRespondents

2. CR-3298-2021

Manik Singh and another ...Petitioners

Versus

The S.D. Vidya School and othersRespondents

3. CR-3299-2021

Seerat Kaur and another ...Petitioners

Versus

The S.D. Vidya School and othersRespondents

CORAM : HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Abhinav Aggarwal, Advocate
for petitioner No.1.

Mr. Aashish Chopra, Sr. Advocate with
Mr. Gagandeep Singh, Advocate
for the respondents.

Mr. R.S.Khosla, Sr. Advocate with
Mr.Aman Sharma, Advocate
for Amicus Curiae.

ANIL KSHETARPAL, J. (ORAL)

In these revision petitions, the question relate to the jurisdiction of Civil Court in recovery suits filed by the school against the students or their parents/guardians.

Learned counsel representing the petitioner, heavily, relies upon the judgment passed in **Apeejay School Vs. Ayushman Garg and another, RSA No. 3374 of 2019 and other connected cases decided on March 15, 2022.** It has been held that in view of Section 22 of the Haryana School Education Act, 1995 read with Rule 158A of the Haryana School Education Rules, 2003, the jurisdiction of Civil Court to entertain and decide a suit filed by the school for recovery of fees from the students is barred.

With highest respect, it is evident that the attention of the Bench in the aforesaid case was not specifically drawn to sub Rule (ii) of Rule 158A. On a careful reading thereof, it is evident that the Fee and Fund Regulatory Committee is empowered to order refund of the excess amount charged by the school and not vice-versa. Rule 158A is extracted as under :-

“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.”

Section 22 of the Haryana School Education Act, 1995 (hereinafter referred as 'the Act') bars the jurisdiction of Civil Court only with respect to any matter in relation to which the Government or the Director or any other person authorised by the Government or the Director is empowered by or under the Act.

Section 22 of the Act is extracted as under :-

“22. Jurisdiction of civil courts barred.—*No civil court shall have jurisdiction in respect of any matter in relation to which the Government or the Director or any other person authorised by the Government or Director or any other officer or authority appointed or specified by or under this Act, is empowered by or under this Act or exercise any power, and no injunction shall be granted by any civil court in respect of any thing which is done or intended to be done by or under this Act.”*

After having heard the learned counsel for the parties, this Court is

of the view that the interpretation of Rule 158A read with Section 22 of the Act

requires re-consideration.

Ordinarily, this Court would have referred the matter for re-examination to a larger Bench, however, learned counsel representing the respondents has brought the attention of the Court to the order passed by the Hon'ble Supreme Court of India in **SLP (C) No.8544 of 2022** which has been filed assailing the correctness of the judgment passed by in *Apeejay School's case (supra)* on 13.05.2022, which reads as under :-

“Learned counsel for the petitioner submits that Rule 158 A of the Haryana School Education Rules, 2003 as amended on 28.01.2014 do not provide for a remedy of recovery in respect of fee of the school.

Issue notice.

On the issue of interim relief, learned counsel for the petitioner submits that the apprehension is that there are similar other cases pending and based on the impugned judgment those appeals may also be rejected.

In view thereof, we direct that the impugned judgment will not have effect of law qua other cases till we consider these matters.”

It is evident that the Supreme Court, while issuing notice, has directed that the impugned judgment shall not have effect of law qua the pending cases till the matter is decided by the Supreme Court.

It is well settled that the jurisdiction of Civil Court to decide a civil dispute is plenary. The provisions excluding the jurisdiction of Civil Court are required to be strictly construed. On a careful reading of Section 22 of the Act, it is evident that the bar to the jurisdiction of the Civil Court is neither absolute nor omnipotent and there may be cases which may still be entertained by the Civil Courts including a suit filed by the school to recover fee from its students. The

jurisdiction of Civil Court is excluded only in respect of the cases which strictly fall within the domain of the provisions of the Act. The Act covers the cases in which the Government or the Director or any other person authorised by the Government or the Director or any other officer or authority specified by or under this Act is empowered, in this regard, by or under the Act. While interpreting a statute, each word, phrase, punctuation mark has to be given complete and full meaning. As already noticed the jurisdiction of the Civil Court is plenary except where it has been specifically excluded by the statute and further, a proper alternative redressal forum has been provided under law. Once it is evident that Section 22 of the Act does not absolutely bar the jurisdiction of Civil Court, in such circumstances, the Court is required to scrutinize the facts of each case before finally opining on the question of exclusion of jurisdiction.

On a careful reading of the judgment passed in *Apeejay School's case (supra)*, it is evident that the attention of the Bench was not drawn to sub rule (ii) of rule 158A of the Haryana School Education Rules, 2003 or due to an oversight, the Bench did not comprehend the scope of jurisdiction of the Fee and Fund Regulatory Committee constituted by the Government under the Rules.

Consequently, with highest respect, this Court expresses its inability to follow the interpretation in the case of *Apeejay School's case (supra)*.

In these cases, the applications filed by the students for the rejection of plaint under Order 7 Rule 11 CPC has been correctly dismissed by the Civil Court.

Consequently, finding no merit, these revision petitions are dismissed.

20.07.2022
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(ANIL KSHETARPAL)
JUDGE

Whether reasoned/speaking? Yes/No
Whether reportable? Yes/No