

58 12.10.2023

Ct-08

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MAT 1929 of 2023

with

I.A No. CAN 1 of 2023

Mr. Prosenjit Ghosh & Ors.

Vs.

State of West Bengal & Ors.

Mr. Soumya Majumder

Mr. Anindya Lahiri

Mr. Mainak Ganguly

Mr. Shankar Mukherjee

... For the Appellants

Mr. Biswaroop Bhattacharya

Mr. Sourav Bhagar

Mr. Ritwik Saha

... For the Respondent nos. 6 & 7

Mr. U.S Menon

Mr. Somen Bose

Mr. Abhirul Chakraborty

... For the Respondent no. 2

Mr. Biswabrata Basu Mallick, Ld. AGP

Ms. Parna Roy Choudhury

... For the Respondent no. 2

1. We have heard the learned counsel appearing for the parties.

2. At this stage it cannot be decided whether the payment of fees and charges levied by the School and it is submitted by the appellants that the same are not permitted under the Statute or any relevant rules. The clear picture is likely to be emerged after the filing of affidavits.

3. Learned Single Judge has directed the petitioners to pay school fees for their wards at the current rate.

4. The pay structure of school fees depends on various factors, namely, quality of education, recreation and co-curricular activities and staff-pattern infrastructure of the school to mention a few.

5. It is submitted that all the parties have filed their affidavits in the pending proceeding, except the State. The filing of affidavit on behalf of the State has been extended by the learned Single Judge.

6. Considering the balance of convenience, we are not inclined to interfere with the order passed by the learned Single Judge. It would be for the learned Single Judge to decide finally whether any interference is called for on the basis of the fee structure of the school for the current year. It appears that the school during the COVID period did not enhance the fees. The school has to run its administration. However, any payment during the pendency of the writ petition shall abide by the result of the writ petition.

7. In the event it is found that the writ petitioners have paid any amount excess, the school shall refund the same. We also record that the appellant nos. 2 & 3 have already made

payment of school fees of their wards at the current rate and also paid the arrears.

8. In addition to the payment of fees at the current rate, the appellant no. 1 shall deposit a consolidated sum of Rs.12,250/- towards the arrears fees for two children presently studying in the school without prejudice to his rights and contention within a week from date subject to the result of the pending writ petition. The school fees for the academic session 2023-24 shall be paid without prejudice to the rights and contentions of the parties at the current rate. The school shall received payments without prejudice.

9. Upon payment of all amounts required to be paid in terms of this order, the children of the appellant no. 1 shall be reenrolled. So far as the appellant nos. 2 and 3 are concerned, we record that they have cleared all dues.

10. In view of the aforesaid, the appeal being MAT 1929 of 2023 stands disposed of.

11. In view of the disposal of the appeal, nothing remains to be decided in the application for stay being CAN 1 of 2023 and the same is accordingly disposed of.

12. However, there shall be no order as to costs.

13. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Uday Kumar, J.)

(Soumen Sen, J.)