2023:PHHC:166418

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. CWP-5802-2017(O&M)

Reserved on:15.11.2023
Pronounced on:19.12.2023

1. BAL BHARTI PUBLIC SCHOOL & ORS

.....Petitioners

Versus

STATE OF PUNJAB & ORS .....Respondents

2. CWP-15043-2017

GREEN LAND CONVENT SCHOOL CIVIL CITY CHANDER NAGAR LUDH

.....Petitioner

Versus

STATE OF PUNJAB & ORS

.....Respondents

3. CWP-15717-2017

GURU NANAK PUBLIC SCHOOL

.....Petitioner

Versus

STATE OF PUNJAB AND ORS

.....Respondents

4. CWP-15118-2017 (O&M)

SHRI RAM ASHRAM PUBLIC SCHOOL AND ANR.

....Petitioners

Versus

STATE OF PUNJAB AND ORS ....Respondents

5. CWP-20989-2017

MODERN SR. SECONDARY SCHOOL .....Petitioner

Versus

STATE OF PUNJAB AND ORS.

.....Respondents

6. CWP-13173-2017

GREEN GROVE PUBLIC SCHOOL
.....Petitioner

Versus

STATE OF PUNJAB & ORS .....Respondents

7. CWP-14260-2017

BCM SENIOR SECONDARY SCHOOL, LUDHIANA
.....Petitioner

Versus

STATE OF PUNJAB AND OTHERS
.....Respondents

8. CWP-15264-2017

ST MARY'S CONVENT SCHOOL THR PRINCIPAL
.....Petitioner

Versus

STATE OF PUNJAB & ORS
.....Respondents

9. CWP-15401-2017

THE INDO BRITISH EDUCATION SOCIETY AND ANR.
.....Petitioners

Versus

STATE OF PUNJAB AND ORS.
.....Respondents

10. CWP-14308-2017

BCM SENIOR SCONDARY SCHOOL BASANT CITY VILL DAD PAKHOWAL RAOD LUDHIANA
.....Petitioner

Versus

STATE OF PUNJAB AND ORS
.....Respondents

11. CWP-14537-2017

DAYANAND PUBLIC SCHOOL TH PRINCIPAL SUBASH CHAND BHARDWAJ
....Petitioner

Versus

STATE OF PUNJAB AND ORS
....Respondents

12. CWP-14539-2017

SPRING DALE SENIOR SCONDARY PUBLIC SCHOOL LUDHIANA

.....Petitioner

Versus

STATE OF PUNJAB AND ORS

.....Respondents

13. CWP-14560-2017

ST. JOSEPH CONVENT SCHOOL, PHILLAUR THROUGH ITS PRINCIPAL

.....Petitioner

Versus

STATE OF PUNJAB & ORS.

....Respondents

14. CWP-14645-2017

DAV CENTENARY PUBLIC SCHOOL SENIOR SECONDARY

.....Petitioner

Versus

STATE OF PUNJAB AND ORS

....Respondents

15. CWP-14954-2017

SACRED HEART CONVENT SR. SEC. SCHOLL

.....Petitioners

Versus

STATE OF PUNJAB & ORS

.....Respondents

16. CWP-14974-2017

HOLY ANGELS SCHOOL

.....Petitioner

Versus

STATE OF PUNJAB & ORS

.....Respondents

17. CWP-15545-2017

ASUMPTION CONVENT SCHOOL

......Petitioner

Versus

DIRECTORATE OF EDUCATION & ORS

.....Respondents

18. CWP-16868-2017 (O&M)

HOLY MARY'S SCHOOL BANUR TH ITS PRINCIPAL
.....Petitioner

Versus

STATE OF PUNJAB AND ORS .....Respondents

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SCHOLAR PUBLIC SCHOOL, RAJPURA
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Versus

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Versus

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.....Petitioner

Versus

STATE OF PUNJAB AND ORS
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.....Petitioner

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.....Respondents

23. CWP-18350-2017

PREM SABHA SENIOR SECONDARY SCHOOL THRU ITS DULY AUTHORIZED MANAGER, PURAN CHAND JINDAL
....Petitioner

Versus

STATE OF PUNJAB THRU PRINCIPAL SECRETARY,DEPTT. OF EDUCATION,PUNJAB AND ORS.

.......Respondents

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.....Petitioner

Versus

FEE COMMITTEE & ANR

.....Respondents

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.....Petitioners

Versus

STATE OF PUNJAB AND OTHERS

....Respondents

26. CWP-22099-2017

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.......Petitioner

Versus

STATE OF PUNJAB & ORS

.......Respondents

27. CWP-22107-2017

A.C. GLOBAL SCHOOL

....Petitioner

Versus

STATE OF PUNJAB AND ORS

.....Respondents

28. CWP-22598-2017

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....Petitioner

Versus

STATE OF PUNJAB AND ORS

.....Respondents

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.....Petitioner

Versus

STATE OF PUNJAB AND ORS

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.....Petitioner

Versus

STATE OF PUNJAB AND ORS

.........Respondents

31. CWP-26932-2017

ST. MARY'S CONVENT SCHOOL MARIA NAGAR MAKHU

.....Petitioner

Versus

STATE OF PUNJAB AND ORS

.....Respondents

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.....Petitioner

Versus

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.....Petitioner

Versus

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34. CWP-26015-2017

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.....Petitioner

Versus

STATE OF PUNJAB AND ORS

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35. CWP-26048-2017

DIVINE LIGHT PUBLIC SR. SECONDARY SCHOOL

.....Petitioner

Versus

STATE OF PUNJAB AND ORS

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36. CWP-24437-2017

SACRED HEART CONVENT SCHOOL

.....Petitioner

Versus

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37. CWP-26782-2017

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38. CWP-25953-2017

GENIUS INTERNATIONAL SCHOOL

......Petitioner

Versus

STATE OF PUNJAB & OTHERS

.....Respondents

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.....Petitioner

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STATE OF PUNJAB AND ORS

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.....Petitioner

Versus

STATE OF PUNJAB ETC.

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.....Petitioner

Versus

STATE OF PUNJAB AND ORS

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.....Petitioners

Versus

STATE OF PUNJAB AND ORS

.....Respondents

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AKAL ACADEMY

.....Petitioner

Versus

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.....Respondents

44. CWP-12052-2018

AKAL ACADEMY,VILLAGE FATEHGARH CHANNA, TEHSIL SAMANA,DISTRICT PATIALA

.....Petitioner

Versus

STATE OF PUNJAB AND OTHERS

.....Respondents

45. CWP-12055-2018

AKAL ACADEMY,VILLAGE BILGA ,TEHSIL PHILLAUR ,DISTRICT JALANDHAR

.....Petitioner

Versus

STATE OF PUNJAB AND OTHERS

.....Respondents

46. CWP-6919-2018 (O&M)

SHRI GURU HARKRISHAN SR. SEC. SCHOOL AND ANR.

.....Petitioners

Versus

STATE OF PUNJAB AND ORS.

.....Respondents

47. CWP-13730-2018

HVM CONVENT SENIOR SECONDARY SCHOOL AND ANOTHER

.....Petitioners

Versus

STATE OF PUNJAB AND ORS

.....Respondents

48. CWP-16984-2020 (O&M)

DELHI PUBLIC SCHOOL LUDHIANA AND ANR

......Petitioners

Versus

STATE OF PUNJAB AND OTHERS

..........Respondents

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present:- Mr. Sunil Chadha, Sr. Advocate with
Ms. Kashish Aggarwal, Advocate,
for the petitioner in CWP-13173 of 2017.

Mr. Vijay Kumar Jindal, Sr. Advocate with
Mr. Samar Ahluwalia, Advocate
for the petitioner in CWP-14537-2017.

Mr. D.S. Patwalia, Sr. Advocate with
Mr. Sehar Navjeet Singh Sandhu, Advocate
for the petitioner(s) in CWP-21743 of 2017.

Mr. Sandeep Wadhawan, Advocate, and
Mr. Suvir Tandon, Advocate, for the petitioners in
CWP-15264, 14560, 26932, 26968, 26970, 26782, 27280 and
27209 of 2017.

Mr. Arpit Dua, Advocate, for the petitioner in
CWP-23196-2017.

Mr. J.S. Bhatia, Advocate, for the petitioner in
CWP-16984-2020.

Ms. Lovepreet Kaur, Advocate, for
Mr. A.S. Barnala, Advocate, for the petitioner in
CWP-12055-2018 and 5802-2017.

Mr. M.P.S. Mann, Advocate, for the petitioners in
CWP-7511-2018, 12052-2018 and 12055-2018.

Mr. Saksham Khunger, Advocate, for
Mr. Sandeep Khunger, Advocate,
for the petitioner in CWP-25953-2017.

Mr. Suvir Sidhu, Advocate, for the petitioner in
CWP-15545-2017.

Mr. Arjun Pratap Atma Ram, Advocate, with
Mr. Shubham Tandon, Advocate,
Mr. Rahat Sekhon, Advocate,
Mr. Nakul Sharma, Advocate, and
Mr. Om Malhan, Advocate, for
Mr. M.S. Sachdev, Advocate,
for the petitioners in
CWP-5802-2017, CWP-15118-2017 and CWP-20989-2017 and
Mr. Nakul Sharma, Advocate,
Mr. Om Malhan, Advocate, for
Mr. M.S. Sachdev, Advocate, also
for respondent in CWP-24437-2017.

Mr. Brijesh Khosla, Advocate
for the petitioner in CWP-5802 of 2017; CWP-15118 of 2017
CWP-20989 of 2017.

Mr. Ravish Bansal, Advocate
for the petitioner in CWP-25590-2017.

Mr. Abhishek Kaushik, Advocate for
Mr. Vijay K. Jindal, Advocate for the petitioner in
CWP-18350-2017.

Ms. Divya Sharma, Advocate
for the petitioner in CWP-16868-2017.

Mr. Peeyush Gagneja, Advocate
for the petitioner in CWP-24095-2017, CWP-26015-2017 and
CWP-26048 of 2017.

Mr. Ishan Thakur, Advocate, for
Mr. L.S. Sidhu, Advocate, for respondent No.3
in CWP-13173-2017.

Mr. Ish Puneet Singh, Advocate,
for respondent No.3 in CWP-6919-2018.

Mr. Ishwar Lal, Advocate
for private respondents in CWP-17018-2017;
CWP-18714-2017; CWP-14974-2017; CWP-18111-2017 and
CWP-16868-2017.

Mr. Ashok Bhardwaj, Advocate
for respondent No.4 in CWP-18350-2017.

Ms. Tarranum Madan, Advocate, for Mr. Viren Jain, Advocate
for respondent No.4 in CWP-16984-2020.

Mr. Jatinder Nagpal, Advocate
for respondent No.6 in CWP-14537 of 2017;
for respondent No.3 in CWP-14645-2017 and
for respondent No.4 in CWP-15401-2017.

Mr. Arshdeep, Advocate, for
Mr. Tushar Sharma, Advocate
for respondents No.2 & 3 in CWP-26015 of 2017
and CWP-27280-2017.

SANDEEP MOUDGIL, J.

1. By way of this common order, a bunch of aforesaid 48 writ petitions are being decided together involving identical question of law and similar set of facts.

2. While invoking the jurisdiction of this Court under Article 226 of the Constitution of India, quashing of orders, passed by the Fee Committee

constituted by the High Court for the Private Unaided Schools of Punjab, to examine the complaints by certain parents/representatives and even by individuals made to the Chairman, Central Board of Secondary Education (hereinafter referred to as 'CBSE' in short), alleging exorbitant increase in fee under various heads such as annual charges, tuition fee apart from funds on account of stationery, identity cards, call charges, medical charges, computer charges, miscellaneous charges etc has been sought along with the order dated 30.12.2016 (Annexure P-2) vide which the Fee Committee for the private unaided schools of Punjab has dismissed the review petitions preferred by the Educational Institutions-petitioners.

3. To avoid brevity of facts and the circumstances, which are absolutely similar and identical on legal aspects in all the writ petitions, facts are being considered from the lead case i.e. Civil Writ Petition No.5802 of 2017 titled as ***"Bal Bharti Public School and Others versus State of Punjab and others"***.

4. The petitioner No.1 "Bal Bharti Public School" (hereinafter referred to as petitioner schools) is being run by a Society namely Child Education Society (registered), a parent society of Bal Bharti Public Schools, Pusa Road, New Delhi, on a land stated to have been purchased by it in an open auction to establish a school of secondary level for a sum of Rs.14,80,50,760/- and further spending huge amount on construction of school building. The case set up by the petitioner schools says that it started its operations as a primary school in the year 2007-08 with present student strength of approximately 1300, which was subsequently made functional as a secondary school in the year 2010-11 after the recognition for the same was granted by the Punjab School Education Board (hereinafter referred to as "Board" in short) and affiliation by the CBSE.

5. It is the common stand of all the petitioners and matter of record that a Civil Writ Petition No.20545 of 2009 titled as **"*Anti Corruption and Crime Investigation Cell versus State of Punjab and others*"**, was filed alleging that the parents are being taken to ransom by whimsically enhancing the school fee and the State as well as the CBSE have not come forward to check such menace despite being obligatory upon them under Article 41 of the Constitution, which lays down that the State shall make effective provision for securing Right to Education. The moot question being examined by the Hon'ble Division Bench was recorded in para 81 of its order:-

> *"81. The moot question is while giving freedom to the schools to fix their own fees structure, how to ensure that these schools are not indulging in profiteering/commercialization of education and are also not diverting funds through unauthorized channels. In Delhi Abhibhavak Mahasangh case (supra), Delhi High Court expressed the view that there was a need for establishing a permanent Regulatory Body/mechanism, the rationale whereof is given in paras No. 72 and 81, already extracted above."*

6. In the bunch of writ petitions in hand, it is a three member Committee as was constituted for the State of Punjab (hereinafter referred to as "Fee Committee" in short), to examine the complaints of the parents/representatives of students studying in different private unaided educational institutions, that had passed the orders impugned herein. Though, the judgment is being pronounced taking CWP No.5802 of 2017, as a lead case but for the sake of convenience of the parties to the lis, a brief factual matrix is being recorded hereinbelow:-

(2) CWP- 15043-2017

Petitioner school is an unaided recognized private Senior Secondary School established by Sant Kirpal Vidyak Mission (Regd) in year 2007 and is affiliated to CBSE Board.

In the instant petition, it is on a complaint dated 16.08.2013 (Annexure P-3), filed by Respondent no. 4-Parents Association, the impugned order dated 27.04.2017 (Annexure P-1), passed by the Fee committee.

<u>Contents of complaint</u>- It is alleged that the school is charging fee in the name of re-admission fee and is rising monthly fee arbitrarily and permanent shops are set up by the schools for purchasing books and uniform in which schools have their commission and shopkeepers are conniving with them by charging more money from the parents. Complainant appended some applications dated 06.05.2013, 27.05.2013 submitted before the District Administration wherein it alleged that school has charged Rs. 5200 to 5800 from each child as re-admission fee, has increased tuition fee by 18% without any validity and without permission from Central Board of Secondary Education.

<u>Impugned order</u>- The Fee Committee found hike in fee and funds above 20% during Academic Year 2012-13 as compared to base line fee of 2010-11 fixed by the institute itself, which was held unjustified and refund was ordered.

(3) CWP-15717-2017

The petitioner school was established in 1974 and an unaided recognized private senior secondary at Ludhiana with its affiliation to CBSE Board.

In the instant petition, it is on a complaint dated 04.05.2016 (Annexure P-3), filed by Respondent no. 4-Parents Association, the impugned order dated 27.04.2017 (Annexure P-1), passed by the Fee committee.

Contents of complaint- it is alleged that the said school increased the fees, and charged annual charges of Rs. 6000/- per student from around 4800 students. Admission charges of Rs. 10,000/- charged from new admissions. Tuition Fee of Rs. 6650/- from Nursery to KG and Rs. 6000/- from other classes, computer charges of Rs. 500-1000/- per year and smart class charges of Rs. 200/- P.M. . The school did not prescribe NCERT books and the books prescribed are sold by the school with out receipt from Pal Book Shop. School earned a profit of rs 5,27,342 against an expenditure of Rs 8,44,358 during 2012-2013 and 2014-2015 from hostel fees and also earned a profit of Rs 15,70,229from buses.

Impugned order- The Fee Committee held the hike in fee and funds above 20% during 2012-13 as compared to base line fee of 2010-11 as well as 30% during 2013-14 to be unjustified and ordered the refund.

(4) CWP- 15118-2017

Petitioner school is an unaided private school imparting education up to class 12th and was established in the year 1999 by Shri Ram Ashram Educational Society (Regd) and is affiliated to CBSE.

In the instant petition, it is on a complaint dated 21.06.2016 (Annexure P-4), filed by Respondent no. 4-Parents Association, the impugned orders dated 06.03.2017 and 27.04.2017 (Annexures P-1 & P-2) respectively, passed by the Fee Committee.

Contents of Complaint- The parents showed their resentment on seeking new and re-admission of students for the Academic Year 2016-17, whereby the petitioner school demanded unreasonable towering amounts to deposit under various heads like Maintenance, Annual funds etc. apart from tuition fee.

Impugned order- The Fee Committee held the hike in fee and funds above 20% during Academic Year 2012-13 and 30% during Academic Year 2013-14, as compared to base line fee of 2010-11 fixed by the institute itself as unjustified. Further an amount transferred to society to the tune of Rs. 2,68,14,788/- during the year 2012- 13 earning profit upto 30% in that financial year 2012-13, was beyond the permissible scale i.e., 5%/6%. In addition to the fee, the petitioner school was held to be guilty to charge fee under other heads such as play way equipment, examination and assessment, craft, computer, Lab charges, maintenance charges, sports, Publication, Medical and insurance, cu-curricular activities, which was ordered to be refunded.

(5) CWP- 20989-2017

The petitioner school is an unaided recognized private school run by Saraswati Vidayak Trust being affiliated to CBSE Board is imparting education up to class 12th.

In the instant petition, it is on a complaint dated 22.08.2013 (Annexure P-4), filed by respondent no. 4-Parents Association, the impugned orders dated 09.03.2017 and 27.04.2017 (Annexures P-1 & P-2) respectively, passed by the Fee committee.

Contents of Complaint:- The members of the staff were not paid DA and other benefits at par with Punjab Government and the 5th Pay Commission has also not been implemented rather the money is being misused and siphoned by the President of the Trust. The Commissioner Division (Mr. S.K. Ahluwalia) also made an enquiry but after his retirement no action was taken and in fact, the management has stopped giving the annual increments as well.

<u>Impugned order:-</u> The grievances of the complainants regarding their salary, pay scales and increments etc. are not within the purview of the Committee. Without going into the merits, the complaint to the extent it pertains to the grievances of the teaching faculty, was dismissed, being not maintainable. For the aforesaid reasons the transfer of funds from the school to the society, to the trust, to other institution or to any individual is not permissible by law and as such transfer of funds during 2012-13 and 2013-14 was held unjustified and ordered the refund.

(6) CWP-13173-2017

Petitioner is an unaided recognized private Senior Secondary School, affiliated to CBSE running classes upto Class 12th and is managed by Noble Educational Trust.

In the instant petition, it is on a complaint dated Nil (Annexure P-1), filed by Respondent no. 3-Parents Association, the impugned order dated 27.04.2017 (Annexure P-8), passed by the Fee committee.

<u>Contents of Complaint:-</u> This complaint is by an individual parent stating that my son is studying in the school continuously for the last eight years, wherein the petitioner school charged Rs. 3900/- in 2009-10, Rs. 4000/- in 2010-11, Rs. 4300/-in 2011-12, Rs. 4500/- in 2012-13, Rs. 7000/- in 2013-14, Rs. 10,000/- in 2014-15, Rs. 10,000/- in 2015-16 and Rs. 10,000/- in 2016-17 on account of admission fee/annual fee. Further more, it is alleged that the school charged Rs. 1100/- in 2009-10, Rs. 1600/- in 2010-11, Rs. 2500/- in 2011-12, Rs. 3500/- in 2012-13 from his son towards the Development Fee and Rs. 2000/- in 2013-14 towards miscellaneous charges. That the school is charging fee for the paper every month since 2012-13 whereas in the school dairy, terms and conditions it is recorded that the school shall take exams only for six months in one session.

<u>Impugned Order-</u> The increase in fees and funds over the years from 2010-11 to 2012-13 is from 31%-44% and from 2010-11 to 2013-14 has been to the extent of 44%-63%. The respondents were spending around Rs. 1,00,51,572/- & Rs. 1,41,37,371/- on the wages of the teachers in the year 2012-13 & 2013-14 respectively. Admittedly, Rs.2,76,61,154/-amount stood transferred out of the school during 2012-13 and 2013-14. 38% profit were earned in the year 2012-13 & 33% profit in the year 2013-14. That profit during 2012-2013 and 2013-2014 is 38% and 33% respectively. Profit beyond 6-15% is not permissible, refund of excess profit ordered.

(7) CWP-14260-2017

Petitioner is an unaided recognized private Senior Secondary School affiliated to CBSE imparting education upto Class 12th and is managed by Lala Bahadur Chand Munjal Trust.

In the instant petition, it is on a complaint dated 07.06.2016 (Annexure P-3), filed by Respondent no. 4-Parents Association, the impugned order dated 27.04.2017 (Annexure P-1), passed by the Fee committee.

<u>Contents of Complaint</u>- It is alleged that there is an increase in tuition fees @ 10 to 12% every year and the petitioner school is using non-NCERT books, which are published by private publishers and are very costly. Petitioner school is not having its own transport for students pick and drop, some private transporters and single owners are using old buses, which are not following any safety standards.

Impugned order- That the school had sufficient surplus during 2010-11 and 2011-12, the same should have been used for pay revision and the hike in fees beyond 10%, in view of the surplus available for pay revision cannot be justified. Increase in fee and funds above 10 % during 2012-13 as compared to baseline fee of 2010-11.

(8) CWP-15264-2017

Petitioner is a minority based unaided School affliated to ICSE board running upto class 10th by the Catholic Christians through its registered society namely St. Mary's Convent School, Faridkot.

In the instant petition, it is on a complaint dated 10.03.2016 (Annexure P-4), filed by Respondent no. 3-President Parents Association, the impugned order dated 27.04.2017 (Annexure P-17), passed by the Fee committee.

Contents of complaint- It is alleged in the complaint that for the admission to next Academic Session (March 2016), the school have started admitting students to Nursery class and have increased fees for admission to Nursery class about 20% (Rs.18000/-). The petitioner school is also charging money for many other purposes such as building fund, water fund, sports fund, re-admission fund etc.

Impugned order- The Fee Committee observed that there was sufficient surplus lying with the respondents which they transferred to the trust and there was hike in the fee ranging from 39% to 48% over a period of three years also the Committee held that the hike in fee and funds above 20% during Academic Year 2012-13 and 30% during Academic Year 2013-14 as compared to base line fee of 2010-11 fixed by the institute as unjustified and ordered refund.

(9) CWP-15401-2017

Petitioner is an unaided recognized private school imparting education upto class 12th and is affiliated to CBSE board and is run by petitioner no.1 society.

In the instant petition, it is on a complaint dated Nil (Annexure P-9), filed by Respondent no. 4-Parents Association, the impugned order dated 27.04.2017 (Annexure P-14), passed by the Fee committee.

Contents of complaint:- It is alleged by the complainant-respondent that from the last five years every year school is receiving money on the name of admission fee and Annual Fund, Computer Fee, Smart Class, Activity Charge, Sports Fund, Library Fund and this year this school is increasing the tuition fee significantly. Which is very large as per your instructions and this increase is not permissible without informing the parents.

Impugned Order:- The fee committee held that the fee hike beyond a tolerable limit of 10% is unjustified especially for creation of assets and increase in fee during 2012-13 and 10% hike during 2013-14 as compared to base line fee of 2010-11 by the institute itself is also held unjustified and, therefore, refund has been ordered.

(10) CWP-14308-2017

Petitioner is an unaided recognized private senior secondary school imparting education upto class 12th and is affiliated to CBSE board and was established in the year 2006.

In the instant petition, it is on a complaint dated 02.06.2016 (Annexure P-3), filed by Respondent no. 4-Parents Association, the impugned order dated 27.04.2017 (Annexure P-1), passed by the Fee committee.

Contents of Complaint- It is alleged by the complainant-respondent that the school was established in 2006 (as per school website) and is charging Annual Charges of Rs. 6000/- and is also charging for Cycle Stand of Rs. 1200/-, Scooter/Motor Cycle Rs.1800/-, New admission charges Rs.14300/-, Computer charges of Rs.300/- per student. Further the School compels to purchase their recommended books only from a specified dealer.

Impugned Order- The fee committee held that the fee hike beyond a tolerable limit of 10% is unjustified especially for creation of assets and increase in fee during 2012-13 and 10% hike during 2013-14 as compared to base line fee of 2010-11 by the institute itself is also held unjustified and, therefore, refund has been ordered. E

(11) CWP-14537-2017

The petitioner is a private unaided school run by Sarvhitkari Educational Society (regd.) at Chandigarh and is affiliated with CBSE.

In the instant petition, it is on a complaint dated 29.04.2016 (Annexure P-3), filed by Private Respondent no. 6, the impugned order dated 27.04.2017 (Annexure P-9), passed by the Fee committee.

Content of the Complaint- It is alleged by the complainant-respondent that every year in the name of admission fees, the school is charging annual fund i.e sarvhitkari fund etc for the last 5 years and is not issuing any receipt after collecting fee in the name of the annual fees. Further, school is bound to work without profit /loss but school is making huge income/profit that the school was not authorized to resort any fee hike without permission of the CBSE as per the order date 06.07.2012.

<u>Impugned Order-</u> The fee committee held that the school has not included the fee structure of nursery classes and even the income earned from fees and funds collected for the classes differ from the information submitted by the school. Further the school has transferred an amount of 2.73 crore out of the school . Moreover, the School was duty bound to seek permission from the CBSE for the fee hike during 2011-2012.

(12) CWP 14539-2017

Petitioner school was established in the year 1982 and is being run by spring dale educational Society and is affiliated with CBSE.

In the instant petition, it is on a complaint dated 07.05.2016 (Annexure P-3), filed by Respondent no. 4, the impugned order dated 27.04.2017 (Annexure P-9), passed by the Fee committee.

<u>Contents of the Complaint</u>- It is alleged by the complainant-respondent that the school is charging sum of 5000/- to 9000/- per class every year on the account of development/annual charges. Further, school has never provided the parents the copy of constitution for running the school.

<u>Impugned Order</u>- The fee committee held that the fee hike beyond a tolerable limit of 10% is unjustified especially for creation of assets and increase in fee during 2012-13 and 10% hike during 2013-14 as compared to base line fee of 2010-11 by the institute itself is also held unjustified and, therefore, refund has been ordered. Es

(13) CWP- 14560-2017

Petitioner school is an English medium convent school founded under the aegis of Jai Rani Province Jalandhar and was established in the year 1990 and is running upto 10th standard and is affiliated with ICSE Board.

In the instant petition, it is on a complaint dated 12.05.2016 (Annexure P-3), filed by Respondent no. 3, the impugned order dated 27.04.2017 (Annexure P-14), passed by the Fee committee.

Contents of Complaint- It is alleged that the present school has abruptly increased the fee and other annual charges for the session 2016- 2017 without the consent of the parents. That last year the school charged Rs.9500/- as admission fee and Rs.16,500/- as other charges from the fresh students and now again this year the school has increased the admission fee to Rs.20,000/- along with other charges to Rs 29400 per student in the month of April. Further the school is asking for an illegal declaration from parents that if any mishap happens then the parent or the driver shall be responsible.

Impugned Order- The fee committee has observed the fees hike over the years from 2010-11 to 2012-13 and 2013-14 was to the extent of 17%-118% & 33%-118% respectively and therefore directed the petitioner school to refund the excess fee charged for the year 2012-13 and 2013-14.

(14) CWP- 14645-2017

Petitioner school is managed by the Dayanand Anglo Vedic College trust and management society which is a charitable society registered under the societies registration Act and is affiliated with CBSE.

In the instant petition, it is on a complaint (undated) (Annexure P-3), filed by Respondent no. 3, the impugned order dated 27.04.2017 (Annexure P-1), passed by the Fee committee.

Contents of Complaint- It is alleged that the school is charging year after year in the name of re-admission fee, annual charges, computer fee, sarvhitkari fund etc and students are compelled to purchase uniforms and books from a designated shop. Moreover the school has exorbitantly hiked the fee in violation to the CBSE rules and regulations. The complainants calculated that the school collected Rs. 3,69,97,600/- but the same is shown as Rs. 3,23,16,480/- only. The school HIKED THE Fee and Funds during 2011-12 without any authority and during 2012-13 the ANNUAL CHARGES was HIKED BY 36.36% (from 3300/- to 4500/-) for old students and 50.98% for new students (5100/- to 7700/-). Moreover, the tuition Fees has been hiked by 23% in 2012-13 (650/to 800/-).

Impugned Order- The fee committee held that the hike in fee and funds was above 20% during 2012-13 and 30% during 2013-14 as compared to base line fee of 2010-11 fixed by the institute itself unjustified. Refund ordered. The increase in fee and funds during 2013-14 beyond 30% of the rates of 2010-11, unjustified, refund of the excess charges ordered. Moreover, school earned profit during 2012-13 to the tune of 24.17% in 2012-13 and in 2013-14 23.54% and profit beyond 6-15% is not permissible. Therefore, refund of excess profit has been ordered.

(15) CWP-22469-2018

Petitioner is an unaided minority private educational institution running in the Khanna, District Ludhiana, since 1986 and is affiliated with CBSE.

In the instant petition, it is on complaints dated 09.06.2016 and 20.05.2016 (Annexure P-3), filed by Respondent no. 4, the impugned order dated 27.04.2017 (Annexure P-1), passed by the Fee committee.

Contents of Complaints- It is alleged that the said school has charged the annual fee of Rs. 5200/- as readmission fee. Further, the fees and funds hiked are against the rules and the committee issued notice to examine the documents of the school and it revealed that the school increased the fee by 32% and made a profit of 34% during 2012-13.

Impugned Order- The fee committee held that Hike in fee and funds was above 20% during 2012-13 and 30% during 2013-14 as compared to base line fee of 2010-11 fixed by the institute itself held unjustified as school made profit during 2012-13 and 2013-14 is 34% & 39% respectively. Profit beyond 6-15% is not permissible.

(16) CWP- 14974-2017

Petitioner school is affiliated to the ICSE board and is an unaided recognized private educational institution imparting education upto class 10 running in Dhamoli, Rajpura district Patiala since 1975.

In the instant petition, it is on complaint dated 20.04.2016 (Annexure P-3), filed by Respondent no. 4, the impugned order dated 27.04.2017 (Annexure P-1), passed by the Fee committee.

Contents of Complaint- It is alleged that admission fee of KG in the year 2010-11 was Rs. 2,000/- and it was hiked to Rs. 4000/- during 2013-14 with 100% increase. That admission fee of 1st to 10th class in the year 2010-11 was Rs. 2500/- and it was hiked to Rs. 6000/- during 2013-14 with 140% increase in 3 years which is unlawful and that the school collected Rs. 31,32,200/- against an expenditure of Rs. 10,81,349/- only during 2010-11 to 2012-13 and excess charges of Rs. 20,50,851/- need to be refunded.

Impugned Order:- The fee committee held that hike Increase in fee and funds was above 20% during 2012-13 and 30% during 2013-14 as compared to base line fee of 2010-11 fixed by the institute held unjustified. The school has made a profit of around 108.28 lakh (36.74%) during 2011-12, and Rs. 134.35

lakh (36.91%) in 2012-13 and Rs. 129.46 lakh (31.16%) during 2013-14. This is after taking into account the revenue expenditure. Surplus beyond 15% is not permissible as per the submissions made by school itself. Excess amount over and above 15% earned during 2012-13 and 2013-14 held unjustified. Refund ordered.

(17) CWP-15545-2017

Petitioner school is affiliated to ICSE and is a unaided minority institution run by Religious Minority Community i.e Catholic Christians and is established since 1973 imparting education upto 10 the standard.

In the instant petition, it is on complaint dated 01.08.2016 (Annexure P-3), filed by Respondent no. 3, the impugned order dated 27.04.2017 (Annexure P-4), passed by the Fee committee.

Contents of Complaint- Perusal of complaint shows that the allegation levelled in the complaint pertains to the year 2015-2016 and 2016-2017 and the school is engaged in profiteering activity and huge amount so raised from the students are not spent for the purposes for which the funds are collected and moreover, there is no justification for collecting such huge amount under the guise of different heads from the parents of any students, sometime it is charged on account of building fund, sometime it is charged on admission charges, maintenance charges, their main purpose to squeeze the parents.

Impugned Order:- The fee committee held that the school generated a profit of 43.54% during 2012-13 and 53.89% in 2013-2014 beyond the permissible limit of 6-15% and the increase in fee and fund above 10% during 2012-13 as compared to base line fee of 2010-2011 fixed by the institute itself is unjustified . Refund has been ordered.

(18) CWP-16858-2017

Petitioner school is an unaided recognized private educational institution imparting education upto class 10th and is affiliated to CBSE board and was established in the year 1999.

In the instant petition, it is on complaint dated 28.06.2016 (Annexure P-4), filed by Respondent no. 4, the impugned order dated 27.04.2017 (Annexure P-1), passed by the Fee committee.

Contents of Complaint- It is alleged that during the academic session 2016-17, respondent no. 4, whose son is a student in the petitioner-school, filed a complaint alleging therein, inter-alia, that the petitioner-school had increased the tuition fee from Rs. 750/- to Rs. 950/- in April, 2016 and the petitioner-school had further demanded Rs. 1370/- per month from May 2016 onwards and Rs. 6000/- was being charged in addition as annual charges.

Impugned Order:- The fee committee held that the fee hike beyond a tolerable limit of 10% is unjustified especially for creation of assets and increase in fee during 2012-13 and 10% hike during 2013-14 as compared to base line fee of 2010-11 by the institute itself is also held unjustified and, therefore, refund has been ordered. E

(19) CWP- 17018-2017

Petitioner school is affiliated to CBSE board and is imparting education upto class 12th and was established in the year 2002 .

In the instant petition, it is on complaint dated 23.07.2016 (Annexure P-3), filed by Respondent no. 3, the impugned order dated 27.04.2017 (Annexure P-1), passed by the Fee committee.

Contents of Complaint – It is alleged that the school has hiked the fee from Rs. 1200 to Rs. 1600 and around Rs. 7000 has been charged (in addition) to the annual fee. The transport rules are not being adhered to and the circular dated 15.10.2010 has been violated by the petitioner/School. It is also alleged that the petitioner school is harassing the ward- Harjot Singh (Studying in Class 6-E) of the respondent and refusing him to appear in half yearly examination.

Impugned Order:- The fee committee held that the fee hike beyond a tolerable limit of 10% is unjustified especially for creation of assets and increase in fee during 2012-13 and 10% hike during 2013-14 as compared to base line fee of 2010-11 by the institute itself is also held unjustified and, therefore, refund has been ordered. E

(20) CWP-17120-2017

Petitioner school is an unaided minority recognized private educational institution imparting education up to call 12th and is running since 1970.

In the instant petition, it is on complaint dated 08.03.2016 (Annexure P-4), filed by Respondent no. 4 (Parent Association), the impugned order dated 27.04.2017 (Annexure P-1), passed by the Fee committee.

Contents of Complaint – It is alleged that the petitioner-school has increased the fee manifold every year and is charging admission fee at three steps. Further the petitioner-school charged miscellaneous amounts from time to time for which it did not issue any receipt.

Impugned Order:- The fee committee observed that the school made a profit of around 69 lakh during 2010-11, Rs.1 core two lakh in 2011-12 and the same stood increased to around 2 crore during 2012-13. This is after taking into account both the revenue and the capital expenditure, whereas surplus beyond 15% is not permissible and excess amount over and above 15% during 2012-13 is unjustified and, therefore, refund ordered. The school gave misleading figures and altered figures in various statements from which it can be concluded that either the accounts not maintained and just figures given to suit the needs or the figures altered knowingly. The regulatory authority set up/to be set up under the provisions of section 3 of the Punjab Regulation of fee of Unaided Educational Institutions Act. 2016, may conduct a detailed examination for appropriate action thereafter.

(21) CWP-17228-2017

Petitioner is an unaided minority recognized private educational institution imparting education up to class 10 and is running since 1960 under the affiliation of CBSE board.

In the instant petition, it is on complaint dated 16.03.2016 (Annexure P-9), filed by Respondent no. 4 (Parent Association), the impugned order dated 27.04.2017 (Annexure P-1), passed by the Fee committee.

Contents of Complaint-A complaint was filed against the petitioner-school by respondent no.4 before the Fee Committee inter-alia alleging therein that there had been manifold increase in the school fee and further that admission fee was being charged at 3 to 4 stages. It was also alleged that heavy amount was being charged as annual charges, tuition fee, computer fee, etc.

Impugned Order:- The fee committee held that the fee hike beyond a tolerable limit of 10% is unjustified especially for creation of assets and increase in fee during 2012-13 and 10% hike during 2013-14 as compared to base line fee of 2010-11 by the institute itself is also held unjustified and, therefore, refund has been ordered.

(22) CWP- 18111-2017

Petitioner school is a senior secondary private unaided school and is a being run by Patel Memorial Management Society(Regd.) and is affiliated to CBSE Board.

In the instant petition, it is on complaint dated 22.04.2016 (Annexure P-3), filed by Respondent no. 6, the impugned order dated 27.04.2017 (Annexure P-10), passed by the Fee committee.

Contents of Complaint- It is contended that Complainant/Respondent sought information as to whether CBSE can charge readmission fee as per rules and regulation. And as to how much fee increase is permissible by the school every year.

Impugned Order:- The fee committee held that the respondents charged upgradation fee from the students of 11^{th} class and the same is to be discontinued forthwith and the charges made on account of the upgradation fee are also unjustified and, therefore, refund has been ordered. Moreover, the fee committee held that the fee hike beyond a tolerable limit of 10% is unjustified especially for creation of assets and increase in fee during 2012-13 and 10% hike during 2013-14 as compared to base line fee of 2010-11 by the institute itself is also held unjustified and, therefore, refund has been ordered.

(23) CWP-18350-2017

Petitioner school was established in the year 1976 and is a unaided recognized private senior secondary school. And is run by and managed by Prem Sabha Trust.

In the instant petition, it is on complaint dated 23.08.2013 (Annexure P-2), filed by Respondent no. 4- Sham Lal Singla (Ex. Principal), the impugned order dated 27.04.2017 (Annexure P-15), passed by the Fee committee.

Contents of complaints- It is alleged that the Senior Secondary school is collecting fees unlawfully, pays less salary to teachers and issues false certificates. That the funds thus collected are being misused by the management and it has been alleged that the management Committee is not as per law and the Prem Sabha Senior Secondary School, Sangrur, is making fake admissions at 10+1 and 10+2, students pay for remaining absent, and teachers are also fake they are paid minimal amount of salary and are issued experience certificate.hool- School have denied the charges and have submitted that the

Impugned Order:- The fee committee held that the fee hike beyond a tolerable limit of 10% is unjustified especially for creation of assets and increase in fee during 2012-13 and 10% hike during 2013-14 as compared to base line fee of 2010-11 by the institute itself is also held unjustified and, therefore, refund has been ordered. E

(24) CWP-18714-2017

Petitioner school was established in the year 1996 and is affiliated to CBSE Board and is imparting education upto 12th standard.

In the instant petition, it is on complaint dated 20.04.2016 (Annexure P-2), filed by Respondent no. 2, the impugned order dated 27.04.2017 (Annexure P-8), passed by the Fee Committee.

Contents of Complaint- It is alleged that the fee of Rs. 1100/- hiked to Rs. 1250/- per month, and around Rs. 7000/- are charged in addition as annual charges under different heads. Transport rules for school are not being adhered to.

Terms and conditions of Circular No. 2/10/91-42/8553 dated 15.10.2010 issued by Government of Punjab. vide which a cap of Rs. 600/- per month as charges for transport fixed, are being violated. Rs. 650/- of last year for local transport stood hiked to Rs. 800/- presently.

Impugned Order- The Fee Committee directed the petitioner-school to refund the hike in fee and funds above 20% during 2012-13 and more than 30% during the year 2013-14 as compared to baseline fee of 2010-11, fixed by the institute held unjustifiable. Refund ordered.

(25) CWP-21743-2017

The petitioner no.1 is an unaided recognized Private School imparting Primary and Secondary education in the District of Mohali (Punjab) and is affiliated to CBSE and has been operating from the year 2013 onwards and the petitioner school is run and managed by Petitioner no.2 society i.e Orange Educational Society which is an autonomous non-profit organization which was incorporated in the year 2012.

Contents of complaint-On 07.04.2016, a complaint was received to the respondent no.3 (fee committee) by an alleged Association of parents of the school children dated 04.07.2016 wherein it was stated that the petitioner school had charged extra fees from the students at higher prices in the name of the annual charges and annual fees and the same were against the instructions of the CBSE and the directions of the Hon'ble Punjab and Haryana High court.

Impugned order-The committee passed an impugned order on 27.04.2017 directing the petitioners to make certain refunds for the academic year 2012-13 and 2013-14.

(26) CWP-22099-2017

The petitioner no.1 is an unaided recognized Private educational Institution running in Samana, Tehsil and District Patiala since 1989(senior secondary school), affiliated to CBSE board wherein the school does not receives grant in aid or any other aid from the State Government to meet the expenses of running the petitioner school.

Contents of complaint-In 2015, during the academic year 2014-15, respondent no.4(Manjinder Singh) filed a complaint(Annexure P-2) alleging that the school was recovering an annual charge every year, unauthorizingly increasing admission fees, tuition fees, fare of buses and other expenses, books and other articles supplied by school are sold through one favoured shopkeeper at the print rates etc.

Impugned order- by the committee 27.04.2017, passed directing the petitioner school to refund the increased fees and admission charges and surplus for the year 2012-13 and 2013-14 and also to refund the amount.

(27) CWP-22107-2017

Petitioner is an unaided recognized private school imparting education to its students from class pre-nursery to 10th standard and is being managed by A.C. Education Welfare Society,Zirakpur which is duly registered under the societies Registration Act. The petitioner school was started in the year 2009-2010 and is affiliated with CBSE since year 2011-12.

Contents of complaint-On 28.06.2016, respondent no.3 (Jagtar Singh) lodged a complaint by way of self declaration to respondent no.2(Fee Committee) with regard to charging annual funds of 6000/- every year and excess fee and other charges like tuition fees and books,uniform are available at only one shop in Panchkula. On 08.11.2016, the fee committee passed an order that the school had increased fees by 69% during 2012-13

<u>Impugned order</u>-On 27.04.2017, the respondent fee committee passed an impugned order and directed the respondent school to refund of the admission charges made during 2012-13 and 2013-14,refund of increased fees and funds above 10% during 2012-13 as compared to baseline fee of 2010-11,refund of increased fee and funds above 20% during 2013-14 as compared to baseline fee of 2010-11,refund of interest on student security during 2012-13 and 2013-14.

(28) CWP-22598-2017

Petitioner is an unaided unrecognized Pre Primary school(Pre Nursery to KG standard) school functioning at Khanna, district Ludhiana started in the year 2008.

<u>Contents of complaint</u>-On 27.04.2016, respondent no.4 filed a complaint against the petitioner school before respondent no.3 to take action against the school for charging huge amounts in name of different kind of funds/charges where on 12.04.2016,the complainant went to the petitioner school for redressal of his grievance but the president of the Khanna Educational Society shouted at him and warned him to never bring up this issue.

<u>Impugned order</u>-On 27.04.2017,an impugned order was passed by the respondent committee to the school to refund certain amount charged in excess of the fees.

(29) CWP-22634-2017

The petitioner is an unaided recognized Senior Secondary school (uptil class 12th) established in 1996.

Contents of complaint-Respondent no.4 filed a complaint against the petitioner-school before respondent no.3 (fee committee)on 27.04.2016 to take action against the petitioner school for charging huge amounts in the name of different kinds of funds/charges.

Impugned order-On 27.04.2017 vide impugned order refund of excess fee was directed by the fee committee under various heads i.e increase in fee and funds above 20% during 2012-13 as compared to baseline fee of 2010-11 fixed by the institute itself is unjustified,hike in fees and funds above 30% during 2013-14 as compared to baseline fee of 2010-11 fixed by the institute is unjustified as 45.81% profit was made with the hike is also unjustified,profit during 2012-13 and 2013-14 is 45.21% & 45.81% respectively whereas pofit beyond 6-15% not permissible.

(30) CWP-24095-2017

The petitioner school was established in the year 1968 as a primary school and thereafter has been functioning as a senior secondary school since 1996. The school has been granted recognition and is affiliated to Punjab State Education Board.

Contents of complaint-A complaint(undated) was made by a parent namely Jasbir Singh against the petitioner school alleging that the school has been charging excess fee and on contacting the principal, he was insulted by saying that 'you have yourself got admission of your children with us, we have not brought your children from your house,we will charge fee and admission fee at our own will, do whatever you can do' and further the school gives no fee concession to the children of SC and BC category.

Impugned order-The fee committee vide impugned order observed and ordered that certain unjustified amount shall be refunded by the school and further observed that the salary paid grossly differ in the 43 point performa and the income and expenditure account. The tution fee submitted during 2014-15 is 450/- per month and the same is claimed to be 120/- per year in 2012-13,amount transferred from the school f 12,76,007/- in the year 2013-14 could not be justified. The fee and funds hike during 2011-12 could have not been done without the permission of the concerned board.

(31) CWP-26932-2017

The petitioner is a minority based private unaided convent school situated in District Ferozepur being run under management of Fr. Alwin P. Augustine and does not get any aid from the government in order to meet with expenses in order to run the school.

Contents of complaint-Since the fee and other funds of the petitioner school were not in any way exorbitant, so no notice was served to the petitioner school by the fee committee nor any opportunity of hearing was given to the petitioner school to explain and justify the fee hike,if any during the said year. Further, there is no such complaint from the parent but the school has received impugned order.

Impugned order- Impugned order dated 27.04.2017 was passed and the same has been displayed on the website whereby it has been held that fee increase for relevant years 2012-13 and 2013-14 of petitioner schools is more than 15.5% average and the refund has been ordered.(Annexure P-3).

(32) CWP-26968-2017

The petitioner is a minority based private unaided convent school situated in District Moga and does not get any aid from the government in order to meet with expenses in order to run the school.

Contents of complaint-Since the fee and other funds of the petitioner school were not in any way exorbitant, so no notice was served to the petitioner school by the fee committee nor any opportunity of hearing was given to the petitioner school to explain and justify the fee hike,if any during the said year. Further, there is no such complaint from the parent but the school has received impugned order.

Impugned order- Impugned order dated 27.04.2017 was passed and the same has been displayed on the Website whereby it has been held that fee increase for relevant years 2012-13 and 2013-14 of petitioner schools is more than 15.5% average and the refund has been ordered.

(33) CWP-26970-2017

The petitioner is a minority based private unaided convent school situated in District Sri Muktsar Sahib in state of Punjab and is running under the society named Little Flower Society and does not get any aid from the government nor the from the society under which it is registered in order to meet with expenses in order to run the school.

Contents of complaint- Since the fee and other funds of the petitioner school were not in any way exorbitant, so no notice was served to the petitioner school by the fee committee nor any opportunity of hearing was given to the petitioner school to explain and justify the fee hike, if any during the said year. Further, there is no such complaint from the parent but the school has received impugned order.

<u>Impugned order</u>- Impugned order dated 27.04.2017 has been passed and the same has been displayed on the Website whereby it has been held that fee increase for relevant years 2012-13 and 2013-14 of petitioner schools is more than 15.5% average and the refund has been ordered.

(34) CWP-26015-2017

Petitioner is an unaided recognized private Senior Secondary School established on 02.12.2010, affiliated with the PSEB.

<u>Contents of complaint</u>- No complaint was filed against the petitioner school whereas, in ***DAV College Managing Committee vs Laxminarain and ors (2014) 14 SCC 69***, the apex court has held that objections to the revision of fee should be entertained only from parents representatives and not from individual parents. In the present case, no parents were aggrieved by the fee structure and no complaint was filed by the representative body of the students studying in the petitioner school and their parents.

<u>Impugned order</u>- The impugned order was passed by the fee committee on 01.11.2017 to refund the excess fee/fund of 15% charged during academic year 2012-13 and 2013-14, whereby while considering the record of the school no opportunity of hearing was granted to the petitioner school.

(35) CWP-26048-2017

Petitioner is an unaided recognized private Senior Secondary school being run by Divine Light Public High School Managing Committee society since 11.10.1976 and the school is affiliated with PSEB.

<u>Contents of complaint</u>- No complaint was filed against the petitioner school,whereas,in *DAV College Managing Committee vs Laxminarain and ors(2014) 14 SCC 69,* the apex court has held that objections to the revision of fee should be entertained only from parents representatives and not from individual parents. In the present case, no parents were aggrieved by the fee structure and no complaint was filed by the representative body of the students studying in the petitioner school and their parents.

Impugned order- The impugned order was passed by the fee committee on 01.11.2017 directing refund of 15% excess fee received from the students during the year 2012-13 and 2013-14.

(36) CWP-24437-2017

The petitioner school is an unaided private institution being run by a society which is registered u/s 12AAof the Income Tax Act,1961 as a charitable organization.

Contents of complaint-Since the fee and other funds of the petitioner school were not in any way exorbitant, so no notice was served to the petitioner school by the fee committee nor any opportunity of hearing was given to the petitioner school to explain and justify the fee hike,if any during the said year. Further, there is no such complaint from the parent moreover the facts pertaining to impugned order of the fee committee does not mention the name of the school in question.

Impugned order-The fee committee passed an impugned order dated 27.04.2017, directing to refund the profit earned by sales during 2012-13 and 2013-14 and further held that profit earned during 2012-13,2013-14 is 65% whereas profit beyond 6-15% is not permissible and unjustified.

(37) CWP-26782-2017

Petitioner is a minority based private unaided school functioning since 1979 being run by Catholic institute of Caemelite Sisters, Jalandhar registered society and the school attached with registered society does not get any aid from the government in order to meet with the expenses in order to run the school.

Contents of complaint-Since the fee and other funds of the petitioner school were not in any way exorbitant, so no notice was served to the petitioner school by the fee committee nor any opportunity of hearing was given to the petitioner school to explain and justify the fee hike,if any during the said year. Further, there is no such complaint from the parent.

Impugned order- The school has received impugned order dated 27.04.2017 and the same has been displayed on the Website whereby it has been held that fee increase for relevant years 2012-13 and 2013-14 of petitioner schools is more than 15.5% average and the refund has been ordered. Vide impugned order dated 31.10.2017, the respondent no.3 has called upon the petitioner school to refund the alleged excess fee of 15% within 15 days otherwise the action will be taken against the petitioner school under the Affiliation rules/byelaws.

(38) CWP-25953-2017

The petitioner school was established in the year 2000 and is being run by Genius Model School Education Society(upto class 10th).

Contents of complaint-On 25.07.2016, an organization Jago Parents Jago through its chairman filed a complaint/application alleging the unjust fee hike and harassment to the students and on receiving the complaint, on 14.09.2016 respondent no.3 (fee committee)served a notice to the petitioner to which the petitioner school categorically replied stating that the complainant is habitual and chronic complainant, is in habit of using vague and loose terms like profiteering etc and further specifically states that in the year 2015-16, he sent a bunch of goons to school and for that the school remained closed for a number of days.

Impugned order-The committee observed that during 2012-13 petitioner resorted to 44% to 60% hike,increase in fees and funds during 2013-14 beyond 30% of the rates of 2010-11 is unjustified, fee hike during 2016-17 as compared to 2015-16 has been held by the District Authorities to be more than 10% and directed the same to be refunded vide order 27.04.2017.

(39) CWP-27280-2017

Petitioner is a minority based private unaided school(upto class 12th) functioning since 1979, being run by catholic Christians through its registered society.

Contents of complaint-Since the fee and other funds of the petitioner school were not in any way exorbitant, so no notice was served to the petitioner school by the fee committee nor any opportunity of hearing was given to the petitioner school to explain and justify the fee hike, if any during the said year. Further, there is no such complaint from the parent.

Impugned order- The petitioner school has received an impugned order dated 27.04.2017 and the same has been displayed on the Website whereby it has been held that fee increase for relevant years 2012-13 and 2013-14 of petitioner schools is more than 15.5% average and the refund has been ordered. Vide impugned order dated 01.11.2017, the respondent no.3 has called upon the petitioner school to refund the alleged excess fee of 15% within 15 days otherwise the action will be taken against the petitioner school under the Affiliation rules/byelaws.

(40) CWP 25590-2017

Petitioner school is affiliated with CBSE established in 2002, imparting education from Pre-nursery to Senior Secondary School as an unaided private institution.

Contents of complaint- Respondent no.3-5, former employees of the petitioner school filed complaint against the petitioner school before fee committee against which notice was issued to the petitioner school despite there being no complaint from the parents as the complaint was from ex employees of the school who had no locus standi to file the complaint.

Impugned order- On 27.04.2017, fee committee passed impugned order thereby directing the refund of allegedly excessive fee hike and alleged profit and interest accrued on the security deposits and also directing the district authorities to hold an enquiry against the petitioner school.

(41) CWP-27209-2017

Petitioner is a minority based private unaided school being run by the Catholic Christians through its registered society and the school is neither being funded by the society nor government.

Contents of complaint-Since the fee and other funds of the petitioner school were not in any way exorbitant, so no notice was served to the petitioner school by the fee committee nor any opportunity of hearing was given to the petitioner school to explain and justify the fee hike, if any during the said year. Further, there is no complaint from the parent.

Impugned order- The school has received impugned order dated 27.04.2017 and the same has been displayed on the Website whereby it has been held that fee increase for relevant years 2012-13 and 2013-14 of petitioner schools is more than 15.5% average and the refund has been ordered.

(42) CWP-23196-2017

The petitioner no.2 school was established by the Jain Brotherhood Society in 1994-95 of Zira town and started as Primary school under affiliation of PSEB and is now imparting education upto class 10^{th}.

The petitioner no.1 school is recognized by CBSE and is running classes till 10^{th} established in 2008.

Contents of complaint-On 28.04.2016, four false and frivolous complaints were filed before the fee committee by respondents no.4-7, whose children were studying in the petitioner school alleging fee hike whereas no other parents had complained about the same.

Impugned order-Though the complaints filed by the respondent no.4-7 were dismissed being non maintainable, still the fee committee passed the impugned order on 23.05.2017, fee committee communicated its order dated 27.04.2017 to the petitioner no.1 which was out of its jurisdiction.

(43) CWP-7511-2018

Petitioner school is an unaided private Senior Secondary School functioning in village Bakarwal,District Moga.

Contents of complaint- Respondent no.4(Satinder singh) filed a complaint application against the alleged fee hike by the petitioner school alleging hike in annual charges,increase in tution fee and transport charges.

Impugned order- The impugned order dated 25.01.2017 was passed by the fee committee directing the petitioner school to refund the excess amount transferred for the year 2012-13 and further directed the school to calculate the excess amount transferred to the trust/society during 2013-14 and refund the same.

(44) CWP-12052-2018

The petitioner school is being run and managed by the Kalgidhar Trust, Baru Sahib,District Sirmour,Himachal Pradesh.

Contents of complaint-Respondent no.4(Swaran singh) filed a complaint against the alleged fee hike by the petitioner school alleging that the school has hiked annual charges,increased the tuition fees and transport charges.

Impugned order-The impugned order dated 25.01.2017 was passed by the fee committee wherein it was observed that the academy has increased fee and funds to the tune of more than 10% during the year 2012-13 and directed the academy to refund 62,95,879/- collected during the 2012-13.

(45) CWP-1055-2018

Petitioner is an unaided recognized private Senior Secondary School functioning in village Bilga,District Jalandhar being run and managed by Kalgidhar Society, Baru Sahib,District Sirmour, Himachal Pradesh.

Contents of complaint- Respondent no. 4 to 7 had raised various issues such as hike in the annual charges,increase in tuition fees, charging of parking fees and various other issues whereas the fee committee failed to take into account the fact that the money so receipt/collected by the school is being misused and every penny is being spent for the school and its students.

Impugned order- The impugned order dated 25.01.2017 was passed by the fee committee wherein it was observed that the academy has increased fee and funds to the tune of more than 20% in the year 2012-13 and more than 30%

in the year 2013-14 which is totally unjustified and the same is ordered to be refunded.

(46) CWP-6919-2018

Petitioner no.1 is a private unaided school which is being run by the petitioner no.2 society that is a charitable society registered under Societies Registration Act,1860.

Contents of complaint- Lakhwinder Singh, who claims to be president of respondent no.1 organization wants to extract money from the school and office bearer of petitioner no.2 society and started vendetta against the petitioners by making false allegations. However, when the Deputy Commissioner conducted a thorough enquiry and came to the conclusion that there is no discrepancy in the working of the petitioner no.1 school and the complaint filed by Lakhwinder Singh was a false complaint and as such the complaint was dismissed while holding that it is a false complaint.

Impugned order-The impugned order was passed dated 09.03.2017 wherein it was observed that the petitioner school is providing education at affordable rates,annual increase in the tuition fees is within limits however it held that the school cannot sell books,stationery and uniforms and it further held that the petitioner school cannot collect the CKD fund from the students which ranges from 100/- to 350/- per year.

(47) CWP-13730-2018

Petitioner no.1 is a recognized private Senior Secondary School functioning in Ludhiana run by the petitioner no.2 society. The petitioner school was established in April 2008 and for the extension of the buildings of the school no separate building fund was taken from any student.

<u>Contents of complaint</u>- Respondent no.4 filed a complaint against the petitioner school alleging the unjust fee hike and harassment of students

<u>Impugned order</u>- On 27.04.2017, an impugned order was passed by the fee committee directing the school to refund the fee on various grounds whereas no reason has been given for taking the fee structure of 2011-12.Further, the findings show that the intent of the school is not profiteering but the fee hike is dependent upon the extent of the expenditure to be incurred by the school. The fee committee has given the finding that in the year 2013-14 the fee hike is 4%-12% and the fee committee has itself taken a 10% increase in fee as justified increase rate and the fee hike was done at a nominal rate.

(48) CWP-16984-2020

Petitioner is a private unaided Recognised School being run by parent society(petitioner no.2) since 2004 and is being aggrieved by the recommendations of the fee committee dated 09.03.2017.

<u>Contents of complaint</u>- Respondent no.3, purpoted Parents Association had filed certain complaints which were general, vague,and unsubstantiated in nature and further, the fee committee never issued any summons or show cause notice to the society that any findings may be rendered against the school.

<u>Impugned order</u>- The fee committee vide impugned order has recommended a refund of 10,67,38,498/- which does not represent fee hike for the years 2012-13 and 2013-14.

7. As a backdrop to the controversy, the complaints were filed before the Committee so constituted and thereafter, during the course of examination of such complaints, the Fee Committee passed the order dated 11.02.2016 in CWP

No.5802 of 2017 (Annexure P-1), which was communicated to the petitioner schools on 29.02.2016, as also in other petition of the bunch on similar lines.

8. Being not satisfied with the said order, the petitioner schools sought a review of this order and during its pendency, certain individual parents preferred a Civil Writ Petition No.9542 of 2016, inter alia seeking implementation of order dated 11.02.2016 (Annexure P-1). The said petition was disposed of with the following directions:-

> *"In such circumstances, this Court is of the opinion that the Fee Committee should take a decision on the review applications at the earliest so that the petitioner should not suffer in spite of the fact that an order has already been passed in their favour. Accordingly, the Fee Committee would ensure that a decision on the review application by 31.12.2016 is taken. It is further made clear that this Court is not opining of the maintainability of the review application and it would not be open to the Committee to decide if such a review would be maintainable.*
>
> *Accordingly, the present writ petition is disposed of with the aforesaid observations. However, if no decision is taken by the stipulated date, the State would take appropriate steps to implement the decision dated 11.2.2016 thereafter."*

9. After hearing in the review petition, the order dated 30.12.2016 (Annexure P-2) was passed by the Fee Committee and conveyed to the petitioner schools and on different dates to other petitioners, while dismissing the said review petition as well. It is these orders that are now being impugned in the instant bunch of writ petitions alleging arbitrariness and illegality on the part of Fee Committee along with its jurisdiction to adjudicate on the question of alleged charging of exorbitant fee hike/fee increase by the petitioner schools.

10. Mr. Rajiv Atma Ram, learned Senior Advocate, appearing for the petitioner school contends that the Fee Committee absolutely failed to consider the huge expenditure incurred by it and passed the orders under challenge in the instant writ petition in contravention and derogation of the dictum of this Court in the case "***Anti Corruption and Crime Investigation Cell versus State of Punjab and others"***, passed in Civil Writ Petition No.20545 of 2009 dated 09.04.2013 (Annexure P-4), wherein it was held that the infrastructure and facilities made available by the petitioner schools apart from investments/salaries of the staff and teaching faculty along with expenses likely to be incurred on future plans like expansion are for betterment of the institution for which petitioners have the right to increase the fee structure.

11. He also asserts that the Fee Committee has exceeded its jurisdiction, which was confined and restricted only to test the justification of fee increase/hike that too during the Academic Year 2012-13 and 2013-14 but has exceeded and gone on to record findings beyond its jurisdiction and also in making certain recommendations, which was not within its ambit.

12. Reference has also been made, while proceeding further with the arguments, by Mr. Rajiv Atma Ram to a settlement agreement dated 30.05.2014 agreed at between two purported complainant parents and the petitioner schools, which is a mutual agreement asserting to say that it already stands implemented in its totality but has been ignored amounting to grave error in law and in fact by the Fee Committee, which has no statutory force to act.

13. The attention of this Court has also been drawn to various dates on which the Fee Committee itself adjourned the matter on the one hand to get the terms of settlement/agreement dated 30.05.2014 implemented and at the same

time allowed the complainant-parents of students to resile from the said settlement, which was not within its purview to adjudicate and decide such legal aspects, relating to the legal enforceability and validity of the agreement.

14. In addition thereof, on account of jurisdiction it has also been argued on behalf of the petitioners that the Fee Committee could not interfere with or decide on legality, validity or justification of various heads of fee being levied and charged by the petitioner schools, which was confined only to looking into the justification of the fee hike restricted for the Academic Year 2012-13, as was categorically stated in the order dated 09.04.2013, passed by the Hon'ble Division Bench in Civil Writ Petition No.20545 of 2009 with a specific mentioning of concluding paragraph No.82.

15. Learned Senior Advocate also submits that the recommendations made by it, if at all were to be considered and applied, further it can be only after following due process and as such neither any show cause notice was issued to the petitioner schools nor any opportunity of hearing was provided in that regard resulting into violation of the Principles of Natural Justice.

16. He, while challenging the findings recorded by the said Fee Committee asserts that there are factual errors committed by it, whereby the overall tuition fee increase is recorded to be exorbitant is actually within the range of 10-20% only i.e. the permissible limit for the years 2011-12, 2012-13 and 2013-14 but without considering the calculations properly as provided by the petitioner schools, it went on to direct that the fee increase is on the much higher side being over and above 10% of the previous year. The strength to this argument has been drawn by the petitioners referring to the factual findings in the orders dated 11.02.2016 (Annexure P-1) and 30.12.2016 (Annexure P-2),

wherein it has been observed by considering the percentage increase in the annual charges reading it cumulatively from the year 2012-13 to 2014-15, which is absolutely misleading and against the documentary material produced by the petitioner schools before it.

17. It has also been argued with much vehemence that once the Punjab Regulation of Fee of Unaided Educational Institutions Act, 2016 (hereinafter referred to as Act of 2016) came into being envisaging for Constitution of regulatory bodies defining its powers, the jurisdiction of the Fee Committee constituted by this Court deemed to have ceased w.e.f. day of its coming into force but as a matter of fact on judicial record, the Fee Committee continued to accept and adjudicate upon complaints from various corners including parents association, individual parents and even from certain ex-employees of the institutions who even did not had any locus standi to file such complaints. It is also submitted in most of the petitions that the Fee Committee was to adjudicate the issue in hand for the Academic Year 2012-13 and 2013-14 but it went on to examine those cases and pass orders for such institutions which were not even in existence during that Academic year meaning thereby even for subsequent academic years, it has dealt with these cases as well which was not permissible in law having limited sphere for the aforesaid two years alone.

18. Another factor on which reliance has been made by learned Senior Counsel for the petitioner is to the effect that in all the petitions, the impugned orders though bears the different date but are on the same lines in a stereotype manner to demonstrate that there is no application of mind and proper examination of facts and record which otherwise was obligatory on the Fee Committee before recording the finding.

19. The submissions on behalf of the petitioners folded up with the prayer that in the background of these aspects the petitions deserve to be allowed, with reliance upon the judgment rendered by the Apex Court in "***DAV College Managing Committee versus Laxmi Narayan and Others, 2014(14) SCC Page 69***".

20. No other argument was raised and thereafter, the respondent-State of Punjab was called upon to respond.

21. Mr. Gurwinder Singh, learned Advocate General, Punjab for respondents No.1 & 2 raised a preliminary objection to the effect that since no relief has been sought by the petitioners in any of the writ petitions through the State of Punjab or its departments, the writ petitions are liable to be dismissed on this account qua respondents No.1 & 2. He submits that it is a Committee constituted by a Division Bench of this Court for examining the complaints made by the private respondents, which has passed the orders under challenge before this Court over which the State of Punjab has no control or supervision either directly or indirectly. However, learned Advocate General valiantly tried to justify the recommendations and findings recorded by the Fee Committee in its orders and counter the stand of the petitioners submitting that the Fee Committee is having legal sanctity in law having been constituted by a Division Bench of this Court and it was vested specifically with the powers to examine these issues till a permanent regulatory body/mechanism is provided by the State.

22. He concluded the arguments urging that the State of Punjab has subsequently framed Act of 2016, putting in place a regulatory body already constituted as per Section 3 elaborating its powers vide Section 7 of the said Act but since the complaints were filed prior to the framing of the Act, 2016, the Fee

Committee has legally and justifiably adjudicated the issue having jurisdiction to do so.

23. Mr. D.V. Sharma, learned Senior Advocate appearing on behalf of respondents No.2 & 3 in CWP Nos.26015 & 27280 of 2017 with Mr. Viren Jain, Advocate & Mr. Harshit Jain, Advocate for respondents No.4 to 11, respectively argued to justify the orders passed by the Fee Committee and presses upon implementation of the order dated 11.02.2016, highlighting that even the respondent-State has issued a letter dated 03.05.2017 (Annexure R-3), whereby it was conveyed to the petitioner schools that if necessary compliance is not made within a week, the case for cancellation of NOC as per Rules will be recommended to the Government. It is also submitted that since the petitioner schools are willfully disobeying the directives/recommendations of the Fee Committee and the instructions of the Education Department, the students are being put to undue harassment and exploitation for which their recognition and affiliation deserve to be cancelled. He also asserts that the petitioner schools are delaying the implementation of the recommendations of Fee Committee for obvious reasons i.e., by charging exorbitant fee huge profit and surplus funds are being created to be used for personal gains which is not permissible in law for such private unaided public schools apart from the fact that now the petitioner schools management is enforcing undue influence even in constitution of parents teachers association in total disregard to the conditions of agreement dated 30.05.2014. The submissions were concluded on behalf of the private respondents No.4 to 11 submitting that the Fee Committee has not exceeded beyond its jurisdiction and adjudicated the complaints made by wards-parents of the students purely after examining the record produced by the schools and the

findings recorded are legal and in accordance with law which may be directed by this Court to be complied with, without any further delay.

24. Heard learned counsel for the parties.

25. After scrutinizing the submissions and perusing the record with the able assistance of learned counsel for the petitioners as well as for respondents, the questions to be tested can be culminated as under:

(i) Whether the State Government is not a necessary party and the writ petition qua it deserves to be dismissed?

(ii) Whether the Fee Committee was vested with the jurisdiction to make recommendations after findings of fact to the effect that the petitioner schools are guilty of charging exorbitant fee/other funds etc?

(iii) Whether the Fee Committee went beyond the ambit in examining the hike in fee while testing the original base fee structure and also looking into the academic years even after 2013-14?

(iv) Whether the Fee Committee in adjudicating the complaints exceeded its jurisdiction after inception of Act of 2016?

(v) Whether the Fee Committee exceeded its jurisdiction to examine the cases of such institutions which came into existence even after 2013-14?

26. Mr. Gurwinder Singh, learned Advocate General, Punjab raised a preliminary issue to state that the Government of Punjab is not a necessary party as neither any relief has been sought against it nor any act or omission on the part of State has been brought on record against it.

27. The facts as admitted could be read as the petitioner schools are being run either by a Trust or a Society registered under the relevant Acts framed by the State of Punjab such as Societies Registration Act (II) of 1860, as was

amended by the Punjab Amendment Act, 1957. These petitioner schools have purchased land only after having such registration from Punjab Urban Development Authority (hereinafter referred to as 'PUDA' in short) and got construction over the said land as per the regulations/norms of the PUDA as well as Department of Town and Country Planning, which regulates the building plans including grant/approval of change of land use as per its terms and conditions.

28. In addition thereof for establishment of the institution, necessary approval is also granted by the Government of Punjab on certain conditions. There is no dispute to the fact and is rather an admitted position among the parties that educational institution has to seek recognition and approval from the State Government to establish for which Form-I under the “Right of Children to Free and Compulsory Education Act, 2009” (hereinafter referred to as “Act of 2009” in short), after giving certain undertakings to follow the terms and conditions and other norms, as issued by the State Government from time to time and even the application is processed by the Board only after completion of certain permissions from various departments of the Government like approval from the Education Department to establish the School, change of land use certificate from the State Government/its local authority apart from an undertaking that its teaching staff must possess the qualifications as prescribed by the Education Department of the Punjab Government from time to time and their salary should be atleast the basic pay of the respective grades of the corresponding categories of teaching staff in the State Government Institutions. In addition thereto, these institutes are under obligation vide Regulation 7 of “Punjab School Education Board Regulations for Affiliation of Institutions, 1988” (hereinafter referred to as “Regulations of 1988” in short), that it should

strictly observe to the norms of the municipal authorities regarding drinking water and fire safety precautions in addition to a certificate regarding the safety of building for occupation and use by the Public Works Department/Panchayati Raj Authorities, once in four years.

29. The PSEB shall make inspection on receiving any application for affiliation through a committee consisting of members, as stipulated in Regulation 9(i). The relevant provisions of Regulations of 1988 deemed, to be necessary and hence are reproduced herein to have a glance:-

> *"7. An institution applying for affiliation to the Board shall fulfill the following conditions.*
>
> *(i) An institution applying for affiliation should have a regularly constituted and registered Governing body registered under the Societies Registration Act (XXI) of 1860. This body will have 16 to 21 members constituting of educationists and eminent personalities including Secretary of the Board or his nominee. The Head of institution concerned shall be the Ex-officio Secretary of the Governing body. It should be a non-profit making body. Institution should have obtained a certificate of exemption from Income tax Department. President or the Secretary of the Governing body of the institution shall give an affidavit to the effect that the control of the institution does not vest in an individual or the members of one family. An affidavit from the office of Magistrate Class I shall have to be furnished in this regard.*
>
> *(ii)That, the qualification of the teaching staff shall be as prescribed by the Education Department of the Punjab Government from time to time. However, the Managing Committee may extend the tenure of the Head for two years or up to the age of 62 years which-ever is earlier or may appoint the new Head beyond the age of superannuating i.e., 58 years on contractual basis.(iii) The teaching staff shall be paid*

regularly at least the basic pay of the respective grades of the corresponding categories of teaching staff in the state Government institutions.

(c) It will be mandatory for the institution to provide the CLU certificate and fulfill conditions of building plan while applying for the new affiliation.

(ix) That it has lavatories (separate for male and female) and adequate arrangement for drinking water. The school should strictly observe the norms of the Municipal Authorities regarding drinking water and fire safety precaution in the school.

(xii) That, the building is certified as safe by the PWD/Panchayati Raj authorities, once in four years.

(9) (i) If the application for the affiliation is found in order by the office, the inspection committee consisting of the following members shall inspect the institution.

(a) District Education Officer of the District in which the institution is situated or his nominee (not below the rank of Dy D.E.O.);

(b) A member of the Board or Academic Council;

(c) An Educationist;

(d) A nominee of the Chairman-Convener;

(e) Principal-In-Service Training Center/Principal of Govt.College/Principal, College of Education;.

(f) A member of the Municipal Council/Corporation/Nagar Panchayat, of the locality where the institution is situated."

30. Similarly Bye-laws for affiliation duly issued by the "Central Board of Secondary Education" (hereinafter referred to as 'CBSE' in short) do envisage certain pre-requisites for affiliation of these petitioner schools being run by autonomous organization, trust, societies etc., in Clause 2.3 to 2.3.5 as well as qualifications, recruitment and service rules in respect of teaching staff in Chapter 5 of its bye-laws stipulating that it shall have well defined recruitment

rules on the lines of Recruitment Rules of the appropriate Government and the pay scale and allowances as prescribed by the appropriate Government. Clauses 2.3 to 2.3.5 reads as under:-

> *"2.3 ESSENTIAL CONDITIONS FOR AFFILIATION OF SCHOOLS:*
>
> *Any educational institution in India or abroad which fulfils the following essential conditions may apply to the Board for Affiliation:*
>
> *2.3.1 ESTABLISHMENT OF SCHOOL*
>
> *The school should have been established by any one of the following entities: (a) Government Ministry/Department*
>
> *(b) Statutory Body*
>
> *(c) Autonomous Body*
>
> *(d) Public Sector Undertaking*
>
> *(e) Local Body*
>
> *(f) Any other Government Body*
>
> *(g) Registered Society*
>
> *(h) Registered Trust*
>
> *(i) Company Registered under Section-8 of the Companies Act-2013.*
>
> *2.3.2 REGISTRATION UNDER LAW*
>
> *In case of schools mentioned in clauses 2.1.6, 2.1.7 and 2.1.8, there should be a properly constituted Registered Society/Registered Trust/Registered Company under section 8 of the Companies Act - 2013 (Hereinafter referred to as Society/Trust/Company) having nonproprietary character not vesting control in a single individual or members of a family, conforming to the extant laws and rules.*
>
> *2.3.3 SCHOOL MANAGEMENT COMMITTEE*
>
> *Subject to relevant provision in the Education Act/Rules of the appropriate government, every school should have a scheme of management. It should also have a School*

Management Committee as stipulated under RTE Act 2009 and as per provisions contained in these Byelaws.

2.3.4 RECOGNITION FROM THE RESPECTIVE STATE GOVERNMENT The Schools seeking affiliation with the Board shall submit formal prior Recognition Certificate from concerned State Education Department as per extant rules and provisions contained in RTE Act-2009.

2.3.5 NO OBJECTION FROM THE RESPECTIVE STATE GOVERNMENT. The Schools mentioned under clauses 2.1.5, 2.1.6, 2.1.7 and 2.1.8. seeking affiliation with the Board shall submit formal prior "No Objection Certificate" to the effect that State Government has no objection to the affiliation of the School with CBSE. No objection Certificate once issued to any school will be considered at par even if it prescribes a specific period and / or level unless it is withdrawn.

<u>CHAPTER 5</u>

Qualifications, Recruitment and Service Rules in respect of the Principal, Vice Principal, Teachers and other staff are given in the ensuing clauses.

5.1 The minimum qualifications for the teaching staff (including the Principal/Vice-Principal/Head of school) should be in accordance with the following:

5.1.1 National Council for Teacher Education (Determination of Minimum Qualifications for Persons to be recruited as Education Teachers and Physical Education Teachers in Pre-Primary, Primary, Upper Primary. Secondary. Senior Secondary or Intermediate Schools or Colleges) Regulations as amended and notified from time to time.

5.1.2 Minimum qualifications laid down in the Recruitment Rules for the teachers by the Appropriate Government where the school is situated or the Recruitment Rules for the teachers of Kendriya Vidyalaya Sangthan or Navodaya Vidyalaya Samiti.

> *5.1.3 The minimum qualifications of the teachers of subjects introduced by CBSE are given in Appendix-VII.*
>
> *5.1.4 Where ever need arises, the provisions contained in clause 5.1.2 will prevail over the provisions contained in clause 5.1.3 and the provision contained in clause 5.1.1 will prevail over both 5.1.2 and 5.1.3.*
>
> *5.2 The schools should devise and follow a well organized system for the recruitment of staff of various categories. The following are the guiding principles in respect of all activities related to the recruitment of staff:*
>
> *5.2.1 The school shall have well defined recruitment rules for the staff on the lines of the recruitment rules of the Appropriate Government.*
>
> *5.2.2 Teaching & non-teaching staff should be appointed on pay scales and allowances prescribed by the Appropriate Government."*

31. The collective reading of the aforesaid provisions incorporated by way of either regulations or bye-laws by the Punjab School Education Board or of CBSE, makes it abundantly clear that State has deep control of supervisory nature right from the date of intent for establishment of petitioner schools further continuing in the running of its routine functions as per certain pre-requisite for its affiliation.

32. Hence, this Court is left with no iota of doubt that State is directly responsible for the manner in which these educational institutes are to be established and the procedure to be followed in its running directly under its umbrella, therefore, this argument on behalf of the learned Advocate General, Punjab that no relief has been sought against the State of Punjab is not tenable and the writ petition deserves to be dismissed on this ground, does not inspire confidence of this Court.

33. Now moving further, questions No.2 & 3 are being dealt together as both relates to the jurisdiction of Fee Committee. Before proceeding on these issues, this Court deems appropriate to look at the scope as framed by the Hon'ble Division Bench in case of *Anti Corruption and Crime Investigation Cell (supra),* wherein concluding part of the said judgment in para Nos.81 and 82 are pertinent to be noted:-

> *81. The moot question is while giving freedom to the schools to fix their own fees structure, how to ensure that these schools are not indulging in profiteering/commercialization of education and are also not diverting funds through unauthorized channels. In Delhi Abhibhavak Mahasangh case (supra), Delhi High Court expressed the view that there was a need for establishing a permanent Regulatory Body/mechanism, the rationale whereof is given in paras No. 72 and 81, already extracted above.*
>
> *82. No doubt, in the instant cases before us, as per the replies filed by the official respondents themselves, most of the schools are fulfilling the requirements of submitting the Annual Reports etc. At the same time, it is also a matter of record that there is hardly any examination of these records which are simply dumped by the schools with the Boards/Regulatory Authorities and keep lying there in their archives. Needless to mention that it is the duty of the official respondents to ensure that increase in the fees undertaken by a particular school is justified and necessitated by other circumstances like increase in expenditure or because of developmental activities needed and does not result into profiteering. It is also to be ensured that the funds are not diverted elsewhere. However, there is no mechanism for checking the same. In a situation like this, we are of the opinion that the States of Punjab and Haryana as well as Union Territory, Chandigarh should aiso provide for some*

permanent Regulatory Bodies/mechanism which would go into this aspect on regular basis. (We accordingly give directions to the states of Purjab, Haryana as well as Union Territory, Chandigarh to examine the feasibility of establishing such a mechanism and take decision thereupon within a period of six months from today. 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 (Rtd.): 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 Lal (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 ducation preferably a retired teacher/officer of eminence to be nominated by the Director of Public School Education Board, U.T. Chandigarh.

The fee of the Chairperson(s) shall be 3 25,000/- per sitting and that of the members 7 10,000/-each per sitting. The said fee shall be shared by the schools in the respective States. In addition to the aforesaid fee, the Committee(s) shall also be reimbursed the amount of clerical and other expenses. They shall also be provided suitable place/office for undertaking the task assigned.

Since the schools are submitting the accounts and records can be given by the Boards to the Committee(s). 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 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."

34. The Hon'ble Division Bench has categorically restricted the scope of Fee Committee regarding work to be undertaken by it only to the year 2012-13

and further an ambit was given to the said Fee Committee upto the academic year 2013-14 so as to provide the schools an opportunity to justify the fixation of fee structure by producing necessary material before it. It was also within the purview of the said committee that if it found fee hiked by these schools to be more than unwarranted, a direction can be given to these schools for refund of the said extra fee to the students.

35. In the light of these directions issued by the High Court, which clearly defined its scope, the Fee Committee is held to be well equipped to adjudicate if it found the petitioner schools guilty of charging exorbitant fee/other funds etc. then to order the refund as well.

36. On the question of academic years to be examined by the said Fee Committee, the direction by the Hon'ble Division Bench is categoric for the year 2012-13 while observing that at the time of passing said judgment, there was no mechanism in place in the State of Punjab despite the official respondents being under legal obligation and has the duty to ensure that increase in the fees undertaken by these petitioner schools is justified and necessitated in the circumstance like increase in expenditure or because of developmental activities needed but to ensure that it does not result into profiteering.

37. This Court is also cautious of the fact that the judgment by the Hon'ble Division Bench dated 09.04.2013 (Annexure P-4) and the issue in instant petitions revolves around the act of the petitioner schools increasing fees structure under the pretext of having freedom to do so being autonomous body taking the excuse of increase in expenditure and on developmental activities.

38. The Fee Committee was enshrined to test such increase in fee structure as to whether the petitioner schools are not indulging in profit making.

It was under compelling circumstance, the Hon'ble Division Bench had to give direction to the States to examine the feasibility of establishing such a mechanism and take decision thereupon within a period, of six months from that date and till such direction is complied with, the Fee Committee was set up with the task to go into the accounts of the schools and also to test the reasonableness of increase in fees by these schools. Accordingly, this Court is fully convinced to hold that the Fee Committee so constituted was duly empowered to examine the cases of petitioner schools for the academic year 2012-13 and 2013-14 apart from having force of law to act, adjudicate and even to take action to the extent of ensuring refund of exorbitant fee, if any, so found by the said Committee. Therefore, the argument on behalf of the petitioner schools to the effect that the Fee Committee did not has the jurisdiction to make recommendations and to examine the record including the settlement/agreement dated 30.05.2014 (Annexure P-6), is liable to be negated.

39. Now, taking note of question No.4 as to whether the Fee Committee exceeded the jurisdiction in examining the complaints even after the inception of Act of 2016, the directions of Hon'ble Division Bench in its order dated 09.04.2013 (Annexure P-4), again need to be referred at this juncture since that judgment is the whole basis for setting up the Fee Committee in order to get examining the complaints made by private respondents-parents/representatives. As this Court has already discussed hereinabove in the earlier part that the Fee Committee was set up in the absence of any mechanism by the State of Punjab despite being duty bound on certain aspects to keep a check and supervise specially the fee structure and its increase from time to time by these private unaided educational institutes, till the making of such arrangement as is evident

in first part of para No.82 of the said judgment, which even at the cost of brevity would be worth noticing here:

> "*However, there is no mechanism for checking the same. In a situation like this, we are of the opinion that the States of Punjab and Haryana as well as Union Territory, Chandigarh should also provide for some permanent Regulatory Bodies/mechanism which would go into this aspect on regular basis. (We accordingly give directions to the states of Purjab, Haryana as well as Union Territory, Chandigarh to examine the feasibility of establishing such a mechanism and take decision thereupon within a period of six months from today. 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.*"

40. It is crystal clear from the bare language in the aforesaid directions if read to understand its intent in letter and spirit is that the said Fee Committee was to perform its work till the inception of Act of 2016. Once this statute came into force w.e.f. 22.12.2016 after getting the assent of the Governor of Punjab, the Fee Committee should have refrained from continuing with those complaints which was still pending on that date and ought to have informed the Hon'ble Division Bench but it continued to examine the cases.

41. In the light of this aspect, the impugned orders passed by the Fee Committee after the Act of 2016 came into place hence, suffers from material illegality as well as irregularity having been passed without jurisdiction and therefore, are ordered to be set aside.

42. Now adverting to the last question i.e. The Fee Committee examined the cases of such institutions which came into existence even after 2013-14, certain instances pointed out by learned Advocates in various writ petitions during the course of hearing, would also be pertinent to be looked into for better examination of the impugned order passed by it such as after examining the records of the writ petitions and as an example in CWP No.13173 of 2017, Mr. Sunil Chadha, learned Senior Advocate highlighted that it was only complaint by one parent, who did not choose to appear before the said Committee but impugned orders have been passed against the petitioner schools for refund of the alleged increase in fee structure according to whims and fancies in the absence of the complainant itself.

43. In one of the writ petition bearing CWP No.21743 of 2017, Mr. D.S. Patwalia, learned Senior Advocate would submit that the complaint is dated 07.04.2016 (Annexure P-5) and reply of the petitioner school is dated 13.06.2016 (Annexure P-7), which also produced the balance sheet on 13.06.2016, the impugned order (Annexure P-8) was passed on that date observing the issue of year 2010 involving some transport fee which do not pertain to the petitioner school at all as the said institution was not in existence in the year 2010. In shocking order, the Fee Committed has recorded malpractice by the petitioner school showing loss of Rs.5 Crores in the balance sheet, referring to the year 2012, whereas school came into existence only in the year 2013.

44. In CWP-15545-2017, in the Impugned Order it is stated that no documentary evidence is led by the Respondent No.3 in its Complaint pertaining to the year 2012-2013 and 2013-2014 and the Respondent No.2 has arbitrarily exercised its discretion in applying the documentary evidence pertaining to year 2016-2017 supplied by the respondent No.3 to the year 2012-2-13 and 2013-2014 just to bring the complaint within its jurisdiction and therefore passed the order arbitrarily.

45. In CWP 26932-2017, CWP-26968-2017, CWP-26970-2017, since the fee and other funds of the petitioner school were not in any way exorbitant, so no notice was served to the petitioner school by the fee committee nor any opportunity of hearing was given to the petitioner school to explain and justify the fee hike ,if any during the said year. Further, there is no such complaint from the parent but the school has received impugned order.

46. In CWP-26015-2017, CWP-26048-2017, no complaint was filed against the petitioner school whereas, in ***"DAV College Managing Committee vs Laxminarain and ors", (2014) 14 SCC 69,*** the apex court has held that objections to the revision of fee should be entertained only from parents representatives and not from individual parents. In the present case, no parents were aggrieved by the fee structure and no complaint was filed by the representative body of the students studying in the petitioner school and their parents.

47. In CWP-24437-2017, CWP-26782-2017, CWP-27280-2017 and CWP-27209-2017, since the fee and other funds of the petitioner school were not in any way exorbitant, so no notice was served to the petitioner school by the Fee Committee nor any opportunity of hearing was given to the petitioner school to

explain and justify the fee hike, if any during the said year. Further, there is no such complaint from the parent moreover the facts pertaining to impugned order of the Fee Committee does not mention the name of the school in question.

48. In CWP-25590-2017, respondent no.3 to 5, are former employees of the petitioner school, who filed the complaint against the petitioner school before Fee Committee against which notice was issued to the petitioner school despite there being no complaint from the parents as the complaint was from ex employees of the school who had no locus standi to file the complaint.

49. In CWP-23196-2017, on 28.04.2016, four false and frivolous complaints were filed before the Fee Committee by respondents no.4-7, whose children were studying in the petitioner school alleging fee hike whereas no other parents had complained about the same.

50. In CWP-6919-2018, one Lakhwinder Singh, who claims to be president of respondent no.1 organization wants to extract money from the school and office bearer of petitioner no.2 society and started vendetta against the petitioners by making false allegations. However, when the Deputy Commissioner conducted a thorough inquiry and came to the conclusion that there is no discrepancy in the working of the petitioner no.1 school and the complaint filed by Lakhwinder Singh was a false complaint and as such the complaint was dismissed while holding that it is a false complaint and still the impugned order was passed dated 09.03.2017, wherein it was observed that the petitioner school is providing education at affordable rates ,annual increase in the tuition fees is within limits however it held that the school cannot sell books, stationery and uniforms and it further held that the petitioner school cannot

collect the CKD fund from the students which ranges from 100/- to 350/- per year.

51. Lastly in CWP No. 16868 of 2017, Ms. Divya Sharma, learned Advocate submits that the complaint relates to the academic year 2016-17 and that too by an individual not by the association of parents, which is also pleaded to be against the mandate given by the Hon'ble Supreme Court in ***"DAV College Managing Committee versus Laxminarain and ors.", (2014) 14 SCC 69***, wherein it was held that the objections to the revision of fee should be entertained only from parents representatives and not from individual parents for the reason that at times an individual parent may be reckless which would result into harming the educational prospects of all the students in the institution observing that the selected/elected parents representatives on the other hand are expected to be more responsible as a body. This Court finds weight in the aforesaid submission and has no hesitation to hold that the Fee Committee was not empowered to examine the issue of such educational institutions which came into being after March, 2014.

52. In addition to the above, another pertinent irregularity came into the light after bare reading of the impugned orders attached to the present bunch of writ petitions that they bear different dates, pertaining to different educational institutions but have been decided in a stereotype manner without appreciating the contents of complaint and the submissions made therein by the parents/representatives. This Court easily inferred on a scrutiny of the impugned orders before it that the matter has been hushed up without recording even the correct facts from the complaints.

53. All these facts are suffice for this Court though with pain to record that the Fee Committee consisting of *(i) Hon'ble Mr. Justice Ranjit Singh (Rtd.): 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,* has not applied its mind to the facts as enumerated by the complainants apart from ignoring the merits of reply submitted by the petitioner schools but went on to issue the orders in haste which became subject matter before this Court.

54. As enunciated hereinabove on the basis of discussion and on perusal of record, there is no doubt to the mind of this Court that the impugned orders suffers from not only with the irregularities but are bad in law as well, as such they are ordered to be quashed.

55. However, considering the issue of utmost importance which has already got delayed owing to the multiple rounds of litigation pertaining to the alleged charging of exorbitant fee by the petitioner schools needs to be minutely examined on facts as per the documentary record after duly giving proper opportunity of hearing to the parents/representatives-complainants and, therefore, in the larger interest of both the parties, the Secretary, Department of Education, Government of Punjab is directed to get adjudicated the complaints involved in the present bunch of writ petitions afresh through the Regulatory Body for Regulating Fee Un-aided Educational Institutions at the Divisional Level as constituted vide Section 3 of the Act of 2016, within a period of six months from the date of receipt of the certified copy of this order.

56. In the aforesaid terms, the present bunch of writ petitions stand disposed of.

57. Civil Miscellaneous applications, if any, shall also stand disposed of.

19.12.2023 **(SANDEEP MOUDGIL)**
Poonam Negi **JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No