

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-19684-2023

Date of decision : 06.09.2023

International Institute of Veterinary Education and Research Village

... Petitioner

Versus

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Amit Jhanji, Senior Advocate with
Mr.Himanshu Malik, Advocate and
Ms.Eliza Gupta, Advocate
for the petitioner.

Ms. Rajni Gupta, Addl.A.G. Haryana
for respondent no.1.

VIKAS BAHL, J.(ORAL)

1. This is a civil writ petition filed under Article 226 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing the communication / memo / direction dated 01.09.2023 (Annexure P-9) issued by respondent no.1 qua the petitioner and also the proceedings of the Fee Committee dated 26.07.2023 (Annexure P-10) qua the petitioner.

2. On 05.09.2023, this Court was pleased to pass the following order:-

“1. Inter alia contends that in the present case, vide order dated 12.11.2021 (Annexure P-6) passed by the Additional Chief Secretary to Government of Haryana, Animal Husbandry & Diaring Department, Chandigarh, the fees of the petitioner-Institute in the batch of 2021-22 for the State and Management quota seats was fixed as Rs.5,59,000/- for the newly admitted students and while doing so, it had been specifically stated that the other conditions of the orders dated 16.12.2020, 19.01.2021 and

22.10.2021 would remain the same. Learned Senior Counsel for the petitioner has referred to the order dated 16.12.2020 (Annexure P-4) passed by the Principal Secretary to Government of Haryana, Animal Husbandry and Diaring Department more so, para 12 of the same to highlight the fact that the fee structure which had been fixed by the Department Committee dated 29.07.2019 as per Table No.2 mentioned therein was upheld and the plea of 10% increase per annum on the abovementioned fee structure was allowed. It is further submitted that as per Table No.2, State Quota fee was Rs.3,49,000/- whereas the management quota fee was Rs.5,75,000/- and NRI quota fee was 8800 US dollars (wrongly mentioned as 88000 US Dollars). It is also submitted that respondent No.2, while issuing the prospectus (Annexure P-7) for the Academic Session 2023-24, after taking into consideration the abovesaid decision had specifically mentioned (at page 47 of the paper book) that the fee structure of the petitioner-institute with respect to the course B.V.Sc.&A.H. would be as:- Management Quota fee-Rs.6,76,390/-, State Quota fee-Rs.6,76,390/- and NRI Quota fee was 12883 US dollars in addition to the other expenses which were allowed. It is contended that in the said prospectus, the details of the five private colleges including the petitioner Institute were mentioned and with respect to the other colleges at Sr. Nos.2, 3 and 4, it was specifically stated that the admission to the said colleges would only be after the grant of affiliation for the academic session 2023-24 and renewal of "letter of permission" by the Central Government and with respect to College at Sr. No.5, temporary affiliation of College for the academic year 2023-24 had been granted and it was observed that admission in the college would only be allowed after receipt of "letter of permission" from the Central Government. It is further contended that no such observation was made with respect to the petitioner-Institute which was shown at Sr.No.1 inasmuch as the petitioner Institute has permanent affiliation and is a recognized Institute and it is placed on the highest pedestal in comparison to the other four colleges.

2. Learned Senior counsel for the petitioner has further referred to the note at page 47 of the paper book to highlight the fact that with respect to the other colleges, the fee structure for the academic session 2023-24 was under consideration by the State Government and the same will be applicable on the candidates seeking admission. It is further submitted that perusal of the prospectus clearly shows that the fees for the session 2023-24 with respect to petitioner Institute was fixed whereas the fee with respect to the other four colleges was required to be determined by the State Government. It is further contended that by virtue of the impugned order dated 01.09.2023 and the impugned minutes dated 26.07.2023, the authorities have, on account of some mistake, fixed the fee

even with respect to the petitioner college without issuing any notice to the petitioner college and without even seeking a proposal from the college. It is argued that the fee of the petitioner college has been substantially reduced and the same is in complete violation of the previous orders, prospectus as well as principles of natural justice. It is further argued that the fee of the petitioner college has been equated with the other four colleges in spite of the fact that the petitioner college is a permanent affiliated and recognized College and it is placed on the highest pedestal in comparison to the other four colleges and even has better infrastructure than the other said colleges.

3. *Learned Senior Counsel for the petitioner has further referred to Annexure P-10 to show that the fee structure for academic year 2022-23 of the other colleges is much lower than that of the petitioner college and the said fact has been duly noticed in the Annexure-I (page 56) but in spite of the same, the authorities, primarily on the basis of the average fee of all the Institutes except of the petitioner, has fixed the tuition fee for the State quota and Management quota. Learned Senior Counsel for the petitioner has referred to the judgment of the Hon'ble Supreme Court in Islamic Academy of Education and Another Vs. State of Karnataka and others reported as 2003(6) SCC 697 to contend that the decision of charging fee is required to be taken prior to the issuance of the prospectus so that the same can form a part of the prospectus and further that the fee structure with respect to each and every college is to be determined separately keeping in view the relevant factors including the facilities available, infrastructure, age of the Institution, investment made, future plans etc. It is also submitted that once the prospectus has been issued specifically mentioning the fee which the petitioner college would charge then any subsequent variation in the same would be prejudicial to the petitioner Institute as well as to the students who are seeking admission in the petitioner college and also in violation of law laid down by the Hon'ble Supreme Court in the abovesaid judgment. It is also contended that the case of the petitioner is not on a similar footing as that of the other colleges and thus, the parameters of the petitioner college should have been independently considered. It is also submitted that in case an opportunity of hearing had been granted to the petitioner college and a proposal had been called from the petitioner college then, the authorities would have been able to appreciate the said aspects and thus, it is prayed that the impugned order, at any rate, qua the petitioner deserves to be set aside.*

4. *Learned Senior Counsel for the petitioner has further prayed for interim stay and has submitted that on the said aspect, balance of convenience apart from the petitioner College having a prima facie*

case, weighs in favour of the petitioner, inasmuch as in case the petitioner Institute reduces the fee and some students seek admission on the basis of the reduced fee and subsequently in case the writ petition of the petitioner is allowed then in that situation, the said students would suffer irreparable loss inasmuch they would have joined the Institute on the understanding that the reduced fee is to be charged from them. It is also submitted that on the other hand, in case interim stay is granted in favour of the petitioner college then students would have an option of coming to the college of the petitioner Institute after having knowledge of the fee of the petitioner-Institute which has been mentioned in the prospectus and the petitioner Institute undertakes that subsequently in case writ petition is dismissed then the excess amount so deposited would be credited in favour of the students in the subsequent year.

5. *Notice of motion.*

6. *Ms. Rajni Gupta, Addl. A.G., Haryana, appears and accepts notice on behalf of respondent No.1 and has prayed that before any interim order is passed in favour of the petitioner college, she be granted a short accommodation to get instructions in the matter.*

7. *Adjourned to 06.09.2023.*

8. *Liberty is granted to the petitioner to serve respondent No.2 through dasti process as well as through its counsel also.*

9. *Notice regarding stay.*

10. *To be taken up after the urgent matters are over.*

11. *A photocopy of this order be given to learned State Counsel under the signatures of Bench Secretary of this Court.*

05.09.2023.”

3. Learned State counsel, on instructions from Ankur Gupta, IAS and Birinder Singh, ACS, Director, Department of Animal Husbandry and Dairying has submitted that the case of the petitioner would be reconsidered and for the same, the petitioner-institute will have to give a proposal to the Additional Chief Secretary to Government of Haryana, Department of Animal Husbandry and Dairying, Chandigarh and thereafter, the petitioner would be given a personal hearing by the Committee of which the Additional Chief Secretary is the Chairperson and after hearing the petitioner and considering the proposal, final decision would be taken in the

matter as expeditiously as possible preferably upto 30.09.2023.

4. Keeping in view the above said facts and circumstances and also the facts which have been noticed in the order dated 05.09.2023 and also the statement made by learned State counsel, the present petition is partly allowed and the order dated 01.09.2023 (Annexure P-9) as well as the proceedings of the Fee Committee dated 26.07.2023 (Annexure P-10) are set aside qua the petitioner and the respondent authorities are directed to reconsider the matter. The petitioner would submit their proposal to the Additional Chief Secretary to Government of Haryana, Department of Animal Husbandry and Dairying, Chandigarh on or before 15.09.2023. The Committee after giving an opportunity of personal hearing to the petitioner/its representative would make the recommendation, in accordance with law and the Additional Chief Secretary to Government of Haryana would then pass a final order, as expeditiously as possible, preferably upto 30.09.2023.

5. It is made clear that this Court has not given any final opinion on the merits of the case and it would be open to the respondent authorities to decide the same independently, in accordance with law.

(VIKAS BAHL)
JUDGE

September 06, 2023.
Davinder Kumar

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