

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11213 of 2023

Radha Devi Jageshwari Memorial Medical College and Hospital run by the Society J.M. Institute of Speech and Hearing having its registered office at Indrapuri, Road No. 5, Patna- 800004 through its Treasurer and Authorised Representative Alok Kumar Srivastava, Male aged about 49 years, Son of Shambhu Nath Sahay, resident of Near R.N.S. College, Balughat, Yahiapur, Muzaffarpur, Bihar - 842001.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Health Department, Bihar, Patna.
2. Additional Chief Secretary, Health Department, Bihar, Patna.
3. Officer on Special Duty Health-cum-Officer Incharge, Education Fee Fixation Committee, State Health Society, Sheikhpura, Bihar, Patna.
4. Chairman, Education Fee Fixation Committee, State Health Society, Sheikhpura, Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Abhinav Shrivastava, Adv. Mr. Raushan, Adv. Mr. Sahil Kumar, Adv. Mr. Arpit Anand, Adv. Mr. Atul Prakash, Adv.
For the Respondent/s	:	Mr. Mujtabaul Haque, G.P.-12 Mr. Vasant Vikash, AC to GP-12

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

3 18-07-2024 Heard learned counsel for the petitioner and learned counsel for the State.

2. Present writ application has been filed, inter alia, with a prayer for quashing the fee fixation order dated 22/06/2022 passed by the Educational Fee Fixation Committee, Bihar, Patna (hereinafter referred to as "the Committee") in compliance of order dated 12/08/2005 of Hon'ble Supreme Court in Appeal (Civil) Appeal No. 5041/2005 (PA Inamdar &



others versus the State of Maharashtra), by which after considering the materials available on record the aforesaid the Committee fixed the fee @ Rs.6.94 lakhs besides Rs.1.04 lakhs as Development Fee totaling to 7.98 lakhs for the batch 2021-26, excluding hostel, mess charges, and transport to non-resident and it was furthermore indicated in the said order that the Radha Devi Jageshwari Memorial Medical College and Hospital (hereinafter referred to as "the College") cannot realize the amount more than what they have already mentioned in their proposal furnished to the Committee.

3. Learned counsel for the petitioner submits that the Educational Fee Fixation Committee, Bihar, Patna in compliance of the order dated 12.08.2005 of the Hon'ble Supreme Court passed in Appeal (Civil) Appeal No. 5041 of 2005 (PA Inamdar & others versus the State of Maharashtra), after considering the materials available on record, has been pleased to held that the Committee fixed the fee @ Rs.6.94 lakhs besides Rs.1.04 lakhs as development fees, totaling to 7.98 lakhs for the batch 2021-26, excluding hostel, mess charges, and transport to non-resident. It is further ordered that the College cannot realize the amount more than what they have already mentioned in their proposal furnished to the Committee.



He further submits that despite submission of proposal for the batch of 2022-27, the fee was fixed at the earlier rate of Rs. 7.98 lacs, without considering the documents submitted by the petitioner's institution and, as such, a Fee Fixation Order dated 08.08.2023 was passed by the Educational Fee Fixation Committee, Bihar, Patna. Learned counsel for the petitioner lastly submits that the Committee has not looked the judgment passed by the Hon'ble Apex Court in the case of P.A. Inamdar & Ors. Vs. State of Maharashtra & Ors since reported in (2005) 6 SCC 537 and in the case of Islamic Academy of Education & Anr. Vs. State of Karnataka & Ors. since reported in (2003) 6 SCC 697.

4. Having heard learned counsel for the parties and after going through the judgments cited above, in my considered opinion, a private unaided institution can fix its own fee and the High Court has power of judicial review in such matters as has been held in both the cases.

5. Considering the facts and circumstances of the case and the materials available on record, this writ petition is allowed and the order dated 22.06.2022 passed by the Educational Fee Fixation Committee, Bihar, Patna is hereby set aside.



6. Petitioner is directed to file all related documents before the Educational Fee Fixation Committee within one month from today.

7. The Educational Fee Fixation Committee is also directed to look into the matter and take a decision in accordance with law after affording opportunity of personal hearing or through her counsel within a period of eight weeks thereafter by passing a reasoned and a speaking order.

(Anjani Kumar Sharan, J)

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