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

**CWP-3039 of 2021 (O&M)
Reserved on:02.12.2024
Date of Order: 18.12.2024**

**International Institute of Veterinary Education and Research**

**.Petitioner**

**Versus**

**State of Haryana and others ..Respondents**

**CWP-2946 of 2024 (O&M)**

**Palak and others**

**.Petitioners**

**Versus**

**State of Haryana and others ..Respondents**

**CWP-19833 of 2024 (O&M)**

**Ritik Punia**

**.Petitioner**

**Versus**

**State of Haryana and others ..Respondents**

**CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE ANIL KSHETARPAL**

**Present: Mr. Amit Jhanji, Sr. Advocate, with
Ms. Eliza Gupta, Advocate
Mr. Himanshu Malik, Advocate
Mr. Sahil, Advocate
for the petitioner (in CWP-3039-2021)
for respondent no.3(in CWP-2946-2024)**

**Mr. Gurminder Singh, Sr. Advocate, with
*Ms.*Isha Goyal, Advocate
Mr. Nitish Bansal, Advocate
for the petitioners (in CWP-2946-2024)
for respondents no.3 to 73 (in CWP-3039-2021)**

**Mr.Samay Sandhawalia, Advocate
for the petitioner (in CWP-19833-2024)**

**Mr. Deepak Balyan, Addl.A.G., Haryana**
**Mr. Arun K. Bakshi, Advocate**
**for the respondent-University**

***ANIL KSHETARPAL, JUDGE***

**1. *FACTUAL BACKGROUND***

1.1 With the consent of the learned counsel representing the parties, CWP-3039 of 2021, 2946 and 19833 of 2024, shall stand disposed of by this common order.

1.2. The limited issue which arises for consideration before this court is:-

> *"Whether the Government is justified in directing an unaided private institute to charge fee from subsequent date contrary to the recommendation of Fee Fixation Committee which has been approved by the Government?"*

1.3. In order to comprehend the issue involved in the present case, the relevant facts in brief are required to be noticed.

1.4. International Institute of Veterinary Education and Research (hereinafter for short 'IIVER') was established on 04.04.2011. For the first time, the Fee Structure was approved by the Government on 19.08.2015, with respect to 2014-2015 batch which authorizing the college to increase the fee @ 10% per annum every year for fresh batches. The relevant part of the decision is extracted as under:-

| University quota (in Rs.) per Annual | Management Quota (in Rs.) Per Annual | NRI quota (in U.S.$) one time | Security (in Rs.) |
|---|---|---|---|
| 1.75 lakh | 3.50 lakh | 60,000 | 11 Lakh (Refundable) |

The petitioner college is further allowed 10% increase per annum in the above prescribed fee structure to be applicable every year for fresh batches."

1.5. However, the government permitted the petitioner-College on 07.09.2017, to charge @ Rs.1,92,500/- for State quota seats and Rs.3,85,000/- for Management quota seats against which Civil Writ Petition No.22148 of 2017, is pending for 03.02.2025. On 11.02.2019, the petitioner submitted another representation to the Government for fixation of fee which led to nomination of Fee Fixation Committee (FFC for short) on 22.03.2019, to review the fee structure of Bachelor of Veterinary Science and Animal Husbandry Degree Programme. With respect to batch 2019-2020, the FFC on 29.07.2019 recommended charging of Rs.3,49,090/- for State Quota seats and Rs.5,75,000/- for Management Quota seats. However, the Government did not accept the recommendations and proceeded on 22.10.2019, to fix Rs.2,15,040/- for State Quota seats and Rs.4,31,200/- for Management Quota seats which was set aside in CWP No.16990 of 2020, on 04.11.2020, in the following manner:-

> "*Therefore, we put it to the learned counsel that if at least a fresh order could be passed by the Additional Chief Secretary, after hearing the petitioner (if he so desires) after associating the respondent No.2 which is affiliating this University, learned counsel for the respondents have very fairly agreed that in the circumstances of the case, this would be an equitable solution.*
>
> *Resultantly, the order (Annexure P-15) is set aside and the Additional Chief Secretary, Government of Haryana, Department of Animal Husbandry and Dairying is directed to pass a fresh order after hearing the petitioner within a period of two weeks. It has further been agreed that Mr.Ankur Mittal, Addl.A.G.Haryna, will fix the appointment of the petitioner with*

*Additional Chief Secretary, Government of Haryana, Department of Animal Husbandry and Dairying, Sector-17, Chandigarh, in consultation with their clients"*

1.6. This time, the State Government on 16.12.2020, after hearing the concerned parties, accepted the recommendations of the FFC and permitted the petitioner-Institute to charge tuition fee for batch of 2019-2020 and onwards. Pursuant thereto, the petitioner demanded the revised fees from students of 2019-2020 batch, however, the State Government on 19.01.2021, on the representation of the students once again intervened and directed that the fee structure approved vide the earlier order issued on 16.12.2020, was for academic session/batch 2020-2021 onwards and the petitioner shall not charge the fee from the students of 2019-2020 batch which were admitted for five and half years.

1.7. On 08.01.2024, the petitioner's counsel stated that for the batch of 2019-2020, the Institute does not claim arrears for the first year, however, in the second year, the institute should be permitted to charge a higher fees as approved by the Government on 16.12.2020.

1.8. Reply as well as replication to the writ petition has been filed.

2. ***ARGUMENTS PUT FORTH BY THE LEANRED COUNSEL REPRESENTING THE PARTIES:-***

2.1. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book.

2.2. The petitioner's counsel submits that the request for re-fixation of fee was submitted on 21.02.2019, before the admissions to Session 2019-2010, began. While referring to the prospectus for 2019-2020 and 2020-2021 batch, he submitted that the following note was appended which permits the petitioner to charge fees as assessed by the Government. The aforesaid note is extracted as under:-

> *"Fee structure as mentioned above has been conveyed by State Govt. for the academic year 2018-19 (batch) onwards. Fee structure as prescribed is subject to outcome of CWP No.22148 of 2017 filed in Hon'ble High Court of Punjab & Haryana at Chandigarh and further instructions, if any, from the State Govt. in this regard."*

2.3 He submitted that the order passed on 16.12.2020, is required to be read in the context of the petitioner's request on 11.02.2019, and recommendations of FFC on 29.07.2019, which have been ultimately accepted by the State Government. Hence, the petitioner's college cannot be deprived to charge fee from the students admitted in academic session 2019-2020 from second year i.e. 2020-2021. He submitted that the Government had no power to review its own order passed on 16.12.2020, as the FFC is an expert body constituted for fixation of fee and the State Government is not entitled to interfere unless there are allegations of profiteering by the unaided College.

2.4. Per contra, the learned counsels representing the Students and State Government have opposed on the ground that the tuition fee as notified in the prospectus could not be revised for an ongoing batch because the prospectus issued for admission of a course has the force of law and it was not open to alteration. It is further submitted that the recommendations in favour of the petitioner-college were made for the first time on 29.07.2019, whereas the prospectus was issued on 13.06.2019. Moreover, the fee structure can be revised with effect from 16.12.2020 when the State government's approval was granted. Hence, the students admitted in 2019-2020 could not be compelled to pay the revised fee. He further submitted that in exercise of power of judicial review, the High Court should not interfere particularly when the petitioner while filing Civil Writ Petition No.16990 of 2020, challenged the fixation of fee for the current year 2020-2021 in the said petition.

2.5. It is significant to note that there is an interlocutory order with regard to interpolation of the attendance register in CWP No.19833 of 2024, however, the learned counsel representing the parties have not pressed this issue despite the court having drawn their attention.

2.6. This court has considered the submissions of the learned counsel representing the parties.

3. ***ANALYSIS AND DISCUSSION***

3.1. Before we proceed to analyze, it is necessary to refer to the various judgments passed by the courts from time to time. In order to curb the evil practice of charging capitation fee by private medical colleges, the larger bench of the Supreme Court in ***TMAPai Foundation and others vs. State of Karnataka and others, (2002) 8 SCC 481,*** laid down that rational model should be adopted by the management to avoid payment of capital fee. The State and the Universities were called upon to device appropriate machinery to ensure that no capitation fee is charged and there is no profiteering, though a reasonable surplus for progress of education/institute is permissible.

3.2 Subsequently, in ***Islamic Academy of education and another vs. State of Karnataka and others, (2003) 6 SCC 697***, the Supreme Court held that once fee is fixed by the Committee, the private institute cannot charge either directly or indirectly any other amount over and above the amount fixed as fee. The Governments/appropriate authorities were called upon to frame appropriate regulations if not already framed to regulate and take actions against institutions who indulge in charging of capitation fee or profiteering. It was noticed that the States of Tamil Nadu, Karnataka, Maharashtra and Andhra Pradesh have enacted statutes prohibiting collection of capitation fee and regulating admission process in professional colleges.

3.3 Again the Apex Court in ***P.A.Inamdar and others vs. State of Maharashtra and others, 2005 6 SCC 537***, held that the charging of capitation fee cannot be permitted and no seat can be permitted to be appropriated by payment of capitation fee. The court held that admissions are required to be based on merits and transparency.

3.4. The petitioner- Institute is an unaided private institution. The Government had constituted FFC involving experts in the field. The Committee FFC after considering the petitioner's application submitted in February, 2019 and deliberating on various aspects made its recommendations on 29.07.2019. However, in the first round, the State Government refused to permit the petitioner to charge the fees recommended by the FFC. On 14.11.2020, the High Court set aside Government's decision. Ultimately, the Government on 16.12.2020, accepted the recommendations in the second round. Subsequently, the Government once again intervened and under the garb of clarification reviewed its earlier order by directing that the fee structure shall be applicable only for the batch admitted in 2020 for academic session 2020-2021 onwards while overlooking that the petitioner's request for permission to revise the fee was submitted in February, 2019.

3.5 It is also not the case of the State Government that the petitioner-Institute is indulging in profiteering. The Committee constituted for fixation of fee consisting of subject experts has examined the matter in detail which was subsequently accepted by the Government. Hence, in absence of allegation of profiteering, the Government was not expected to interfere.

3.6 Moreover, on reading of the order dated 19.01.2021, passed by the Government, it becomes evident that the order was modified/reviewed on the ground that in the order passed by the High Court on 14.11.2020, the Court has noticed that the petitioner challenged the fixation of fee for current year i.e. 2020-2021. The Government overlooked that the FFC was constituted pursuant to the petitioner's request made in February, 2019. The recommendations by the FFC were made on 29.09.2019, which were accepted by the Government in December, 2020. Hence, the approval given by the Government was with reference to the request made in February, 2019. In the aforesaid circumstances, in absence of evidence of profiteering on behalf of the petitioner, the Government was not expected to interfere.

3.7 The submission of respondent's counsel that the prospectus is required to be treated as law and that admission fees cannot be revised fee has no substance. It was notified in Chapter VII of the prospectus issued for academic Session 2019-2020 by IIVER that the fee structure as prescribed is subject to outcome of CWP No.22148 of 2017 and further instructions of the State Government which is extracted as under:-

"*(a) Fee structure as mentioned above has been conveyed by State Govt. for the academic year 2018-19 (batch) onwards. Fee structure as prescribed is subject to outcome of CWP No.22148 of 2017 filed in Hon'ble High Court of Punjab & Haryana at Chandigarh and further instructions, if any, from the State Govt. in this regard.*"

3.8. The total duration of course is five and half years. Even in subsequent prospectus issued for the academic sessions 2020-2021, an identical note was appended. In other words, the aspirants were informed of the fact that the fee structure is subject to change depending upon the outcome of dispute pending before the High Court and the State Government. As already noticed, the FFC made recommendations on 29.07.2019. Hence, the aforesaid contention is insubstantial.

3.9. The second submission of the respondent's counsel also lacks substance because the educational institute made its representation on 11.02.2019 (Annexure P-5). Moreover, the Government on 16.12.2020, concluded as under:-

"*11. That after considering the relevant record available with the committee including the tentative annual expenditure per student received from LUVAS meeting of the committee was held on 29.07.2019 at Department of Animal Husbandry & Dairying, Panchkula. After the details deliberations the committee reached to this conclusion that fee structure of private veterinary college/IIVER is required to be reviewed.*

*Taking into account all the facts and records put forth, the committee is recommending the following maximum fee structure which will take effect fro the batch of students admitted for the academic year 2019-2020.*

| Batch | Name of Course | Tuititon fee fixed by the Committee | Remarks |
|---|---|---|---|

| | | | |
|---|---|---|---|
| | | in Rupees | |
| 2019-20 | BVSC&AH | State Quota-3,49,000 INR<br><br>Management Quota-575000INR<br><br>NRI Quota-88000US$ | The fee is only tuition fee including internship fee and college will charge rest of as Admission fee, registration charges, examination fee, amalgamated fund, laboratory/computer/interned fee, library fee, sports fee etc. (The students have to pay onetime security at the time of admission only Rs.1 lakh (Refundable) and other refundable securities as per LUVAS) |

*12. After having heard the petitioner and after having verified all the relevant documents and after careful consideration of all relevant matters, the petition is accepted. The fee structure as fixed by the department committee dated 29.07.2019 as mentioned at Table No.2 above stands upheld. The plea of 10% increase per annum on the above mentioned fee structure is also allowed and its ordered accordingly."*

3.10. Thus, it is evident that the fee for the batch admitted in 2019 was specifically revised. Hence, the subsequent order passed by the State on the pretext of clarification clearly amounts to review. However, the State Government has failed to show any provision that enables them to review or alter the order already made.

3.11. It may be noted here that the petitioner-Institute has already given concession to the effect that the Institute does not claim arrears from batch of 2019-2020 for the first year. They shall remain bound by the aforesaid statement.

3.12. Similarly, foundation of impugned order is factually incorrect because the petitioner-Institute has been contesting with respect to fee structure from February, 2019. The rule of estoppel shall not be applicable against the Institute because the adequate information was given in the prospectus in this regard and there was no promise made on the part of petitioner that the fee structure shall remained unrevised once the students are admitted for a period of next five and half years. Moreover, the Government has overlooked that CWP No.22148 of 2017, filed by the petitioner is pending. Hence, the petitioner-Institute has already challenged the fee fixed by the Government on 07.09.2017, in the aforesaid writ petition. Thus, the petitioner-Institute cannot be deprived from charging the revised fees from students admitted in 2019, for a period of next five and half years from session 2020-2021.

3.13 It is of utmost importance to note that the petitioner-Institute is an unaided private veterinary college. In absence of aid from the government, the Institute is not only required to maintain its infrastructure but also pay salary to the teaching as well as non-teaching faculty. If the petitioner-Institute is required to develop, maintain a particular standard of education, then the Government is not expected to interfere in the recommendation of the FFC consisting of experts unless there is cogent evidence of profiteering or charging of capitation fee.

3.14 The learned counsel representing the parties have admitted that though State of Haryana has enacted the Haryana Private Health Sciences Education Institutions (Regulation of Admissions, Fixation of Fee and Maintenance of Educational Standards) Act, 2012, however, for regulating veterinary courses, no act or regulations have been notified or enacted. In these circumstances, the law laid down by the Supreme Court shall govern the field which prohibits the Institutes from making profits though allowing them to have some surplus to improve the infrastructural and other important facilities.

4. ***DECISION***

4.1 In view of the foregoing discussion CWP No.3039 of 2021 shall stand allowed, whereas CWP Nos. 19833 and 2946 of 2024, filed by the students shall stand disposed of with no further orders.

4.2 All the pending miscellaneous applications, if any, are also disposed of.

**(ANIL KSHETARPAL)**
**JUDGE**

**( SHEEL NAGU )**
**CHIEF JUSTICE**

**18th December, 2024**
**nt**

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