IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.671 OF 2024

Aggrieved Parents Group of students
of the Fransalian School of Excellence,
Through Anil s/o Janrao Shelokar
Age: 48 years, Occu.: Business
R/o 28, Moreshwar Housing Society,
Tq. And Dist. Chhatrapati Sambhajinagar. ..Petitioner

Versus

1. The State of Maharashtra
Through Secretary,
School Education Department,
Mantralaya, Mumbai.

2. The Divisional Fee Regulatory Committee,
Through its Secretary,
Deputy Director of Education,
Chhatrapati Sambhajinagar.

3. The Deputy Director of Education,
Chhatrapati Sambhajinagar Division,
Chhatrapati Sambhajinagar.

4. The Education Officer (Secondary),
Zilla Parishad, Chhatrapati Sambhajinagar.

5. The Education Officer (Primary),
Zilla Parishad, Chhatrapati Sambhajinagar.

6. Fransalian School of Excellence,
Through its Administrator,
Fransalian Technical Institute Campus,
Seven Hills, Garkheda Road,
Chhatrapati Sambhajinagar. ..Respondents

WITH
WRIT PETITION NO.14652 OF 2023

Fransalian School of Excellence,
Through its Administrator,
Fr. Solomon Sahayraj,
Age 47 years, Occ: Priest & Service
R/o Fransalian Technical Institute Campus,

Seven Hills, Gharkheda Road,
Aurangabad. ..Petitioner

Versus

1. The State of Maharashtra
Through its Secretary,
Education Department,
Mantralaya, Mumbai.

2. The Divisional Fee
Regulatory Committee,
Anglo Language Department,
Near School Tribunal,
Aurangabad.

3. The Deputy Director of Education,
Aurangabad Division
Aurangabad.

4. The Education Officer,
Zilla Parishad (Secondary),
Aurangabad.

5. Aggrieved Parents of Fransalian School
of Excellence through its representative
Mr. Anil Shelokar
Age: Major; Occ: Business
R/o: Plot No. 28, Moreshwar Housing
Society, Behind Sarkate's Swarbihar,
Gharkheda, Aurangabad. .. Respondents

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Advocate for Petitioner in WP/671/2024 & Respondent No.5 in WP/14652/2023 : Mr. V.D. Sapkal, Senior Counsel i/b Mr. Ajinkya Reddy a/w Mr. Atharva D. Khedkar
AGP for Respondent/State : Mr. P.S. Patil
Advocate for Respondent No.6 in WP/671/2024 & Petitioner in WP/14652/2023 : Mr. Cedric D. Fernandes

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**CORAM : S.G. MEHARE AND
SHAILESH P. BRAHME, JJ.**

RESERVED ON : FEBRUARY 12, 2025

PRONOUNCED ON : MARCH 11, 2025

JUDGMENT :- (PER S.G. MEHARE, J.)

1. Rule. Rule made returnable forthwith. Heard finally with the consent of the parties.

2. The petitioners in both petitions have impugned a same judgment and order of respondent no.2 dated 09.11.2023. The petitioners in Writ Petition No.14652 of 2023 is a school and the petitioners in Writ Petition No.671 of 2024 are the group of aggrieved parents.

3. The dispute in nutshell is about the hike in the fees imposed by the school. The fee hike was agitated by parents. Many incidents happened including agitation before the school and education department. The complaint was also lodged. The Deputy Director of Education had placed the complaint before respondent no.2 on 12.03.2023. The respective parties were called. The aggrieved parents group had a grievance that the school/management cannot hike the fees contrary to the Maharashtra Educational Institution (Prohibition of Capitation Fee) Act, 1987 ('The 1987 Act' for short) as well as The Maharashtra Educational Institutions (Regulation of Fee) Act, 2011 ('The 2011 Act' for short). Under the 1987 Act, the educational institution in the State cannot accept any kind of fees other than prescribed. However, the school/management has collected a huge amount under the garb of development fee ranging from Rs.10,000/- to 20,000/- from parents at the time of

admission. This was every year practice. The school had also issued the receipts to most of the parents in the name of contribution towards NFC Pre-primary School, Aurangabad Unit. The school/management has collected the fees from each students towards annual function fee without issuing receipt. It was made compulsorily irrespective of participating their pupils in any activities. As per the 2011 Act, the school has to form the parent-teacher association within 30 days of every academic year for communication amongst the parents and teachers and management. However, the management did not send the message about the formation of the Executive Committee of the parent-teacher association during covid-19 pandemic. The school has made the group of parents of each standards. They were in existence till the fee hike. No notice about formation of the Executive Committee was sent. Since the executive committee of school was not formed by following due process, no notice as such was ever published. Non-formation of the Executive Committee as per the rules is one grievance. The another grievance of group of parents was that the school/management has hiked 40% to 50% fee structure for the academic year 2023-24. However, it was not published on the official website of the school. Opposing this exorbitant hike, the parents peacefully protested before the management. The management realizing their mistake, published a notice on 04.02.2023 admitting their mistake and promised to rectify the same within three days. The apology was also sought for. On 06.02.2023, the school/management announced the same revised exorbitant fee. To protest this, written application was filed. It was submitted to the Deputy Director of Education. However, he transferred it to respondent no.2. The notice of hearing was issued and it was scheduled on 24.03.2023. On 24.03.2024, the group of aggrieved parents submitted a detail appeal under the signatures of the aggrieved parents in appropriate format along with the list of parents who will represent the matter before the DFRC on behalf of more than 350 aggrieved parents.

4. The school/management has raised the objection before respondent no.2, the objection of the maintainability of the complaint was also raised on the ground that the name of the parents shown in the list were not the parents of the students of the school. The document was manipulated as some of the signatures were forged. The committee has decided the objection of maintainability on 05.04.2023 and rejected the objection. The school/management had impugned the said order before the High Court vide Writ Petition No.4747 of 2023. The writ petition was disposed of with directions to the Committee/respondent no.2 to scrutinize carefully the identities/signatures of the aggrieved parents and verify the same deciding the complaint addressed to the committee. The committee had scrutinized and verified the identities and signatures of the

parents in meetings dated 17.07.2023, 25.07.2023 nad 01.08.2023 and 07.08.2023. It was further the defence of the school/management that the committee on the basis of the complaint of few parents initiated proceeding against the management is illegal. The complaint dated 06.02.2023 does not disclose the fees collected for previous academic year. The Deputy Director of Education, Chhatrapati Sambhajinagar without making any inquiry forwarded the complaint to respondent no.2 which in turn was registered as appeal, was illegal. Neither the Deputy Director of Education nor the Committee verified the names appearing in the complaint dated 06.02.2023 nor their signatures. The parents were added later on without permission of the Committee. Again the management had challenged the notice dated 13.03.2023 and 24.03.2023 in the High Court vide Writ Petition No.3774 of 2023. Again the High Court directed the Committee to consider all the grounds raised by the school/management. Further the school/management had a case that due to Covid-19 pandemic, the school could not introduce new fees structure as per the 2011 Act. The management has the liberty to determine its own fee structure taking into consideration the fees needed to generate the school funds to run the school. Hearing the respective counsels and considering their case, the committee had framed the following points for determination :

(i) Whether the objection of the respondent school in respect of format of the appeal and strength of group of aggrieved parents is acceptable ?

(ii) Whether the aggrieved parents prove that without following procedure contemplated by The Maharashtra Educational Institutions (Regulation of Fee) Act, 2011 by the respondent school declared revised fees for the academic year 2023-24 ?

(iii) Are the aggrieved parents entitled for the refund of fees for the academic year 2023-24 from the school.

5. The Committee had accepted the case of the group of aggrieved parents. However, once again relegated the authority to the school/management to consider the provisions of the 2011 Act for re-fixing the education fees for the academic year 2023. The aggrieved parents have a serious objection that the Committee should have determined the fee structure and it must not have been relegated to the school/management again.

6. After hearing the respective counsels, there appears no dispute about adjudication admitting the mistake by the school hiking the fee structure. However, the dispute revolves around the following points :

(i) Was the complaint addressed to the Deputy Director of Education transmitted to respondent no.2/Committee is an appeal memo as required under the law ?

(ii) Was the appeal maintainable for want of requisite number of parents ?

(iii) Whether the group of parents were recognized as per the 2011 Act and authorized to prefer the appeal ?

(iv) Whether the format of appeal and strength of group of aggrieved parents is mandatory ?

(v) Can Committee determine the fee structure under the 2011 Act instead of relegating it to the school/management.

7. The learned senior counsel for the group of aggrieved parents has referred to various documents placed on record. He has referred to the receipts accepting the huge amount from the parents and argued that it is a capitation fee which is against the provisions of law. He referred to the complaint addressed to the Education Officer about the hike in the fee. He addressed a letter to the Education Officer to intimate all the concerned to remain present for hearing. He would submit that the reduction in the hike was asked from 2018 to 2024. He also referred to the letter dated 13.03.2023 addressed to the Headmaster of the school asking explanation, why the meeting of the parents was not held and further directed to hold the meeting of the parents. He has referred to Section 6, Section 10 (6)(7), Section

2(r) of the 2011 Act and argued that *prima facie*, there was no error in presenting the complaint and converting it into appeal. He also argued that thereafter, the appeal was preferred in a prescribed format. The parents-teacher association meeting was held on 27.05.2022. However, in the said meeting, there was no decision about hike in fee except new format fee structure. He supported the impugned judgment and order partly, however, the claim that the order relegating the power to the school again to decide the fee structure is erroneous. He relied on the case of <u>*Euro School Education Trust and Others Vs. Divisional Fee Regulatory Committee, Pune and Others, MANU/MH/1622/2017.*</u>

8. Per contra, learned counsel for the school has vehemently argued that the Committee has apparently erred in law in not considering the issue of tenability. The petitioners before it were not the persons authorized and the legally constituted parents association. He also reiterated that the signatures on the complaint were repeated. Hence, it is forged with a view to show the requisite number of parents to constitute the association. He referred to Section 6 (5b) of 2011 Act. To falsify the claim of the aggrieved parents group, he has referred to the affidavit of one of the parents contending that her signatures were forged. The total strength as per the parents was 956. Considering the strength, the complainants were less than 25%. Only 80 parents came forward to verify the signatures. Even though

the Committee did not pay heed to these facts. The parents do not dispute the hike. Their grievance is about the parents-teacher association. The sole witness of aggrieved parents admitted that he did not file the documents showing the hike. In the absence of any document, the Committee has erroneously accepted that there was an unauthorized and illegal hike. It was disputed that the hike was not 45% to 50%. However, the hike was as permissible in law. The parents were agreeable to pay the fees subject to the condition that the school administration and the management should constitute parent-teacher association and its Executive Committee and to get the fees approved from them. He would submit that the impugned order of the Committee is *prima facie* illegal and in violation of law. To support his contention, he relied on the case of Union of India and Others Vs. Mahendra Singh, of the Supreme Court in Civil Appeal No.4807 of 2022 (Arising out of SLP (Civil) No.19886 of 2019). He prayed to allow its writ petition and quash and set aside the impugned order.

9. The petitioners grievance is that on 04.02.2023, the contesting respondent/management has surprisingly announced 45% to 50% hike in the fees of the last academic year. The increased fee structure was not published on the official website of the school. Therefore, they moved an application to the Deputy Director of Education on 06.02.2023. There was a serious fight between the

parents and the management resulting into the agitation. The contesting respondent has raised the objection that the complaint to the Deputy Director of Education dated 06.02.2023 could not be considered as an appeal. The Deputy Director of Education without making inquiry forwarded the copy of the complaint to the Committee which was registered as an appeal. The appeal was not in the format and the requisite numbers of aggrieved parents group was the persons aggrieved.

10. The procedure has been laid down in sub-clause 5 of Section 6 of the 2011 Act. The appeal by the parents should have been preferred along with the duly signed form by each aggrieved parents authorizing the filing of such appeal. The complaint addressed to the Deputy Director of Education was also not the appeal in fact as provided under the said rule. The said rule provides for the appeal against the decision of the Executive Committee about hiking the fees. Herein the case, the petitioner had a case that suddenly, the management hiked the fees. There was no parents-teacher association. Therefore, the management at its own in violation of Section 6 of the 2011 Act cannot increase the exorbitant fees.

11. Section 6 of the 2011 Act speaks of the regulation of fees in private unaided schools and permanently unaided schools. The respondents have a case that their school is unaided school.

Therefore, the management has a exclusive right to increase the fees. Sub-section 1A of Section 6 is about the right of the management to choose to declare the standard-wise fee structure for all standards at the time of admission to the students. If the fee structure is declared for first part, then fee structure for remaining part shall be declared at least before one year of commencement of that academic year. The first part comprises of standards first to fifth and second part comprising of sixth to tenth standards. Such declaration to be made known to the parents.

12. Sub-section 1B of Section 6 further provides that the management of private unaided schools or permanently unaided schools who does not choose to declare the fee structure as per sub-section 1A, shall be eligible to propose the fee in the school which shall not be more than previous academic year fee plus an amount of fifteen percent of the said fee. However, such schools may increase the fee after two years from the date the fee approved by the Executive Committee or Divisional Fee Regulatory Committee as the case may be. The management has also the power to increase the fee as mentioned in sub-section (1A) or propose the fee higher than the rate as provided under sub-section (1B) or before two years as provided in the proviso to sub-section (1B), in unforeseen events, with the approval of 76 per cent of parents or approval of the Executive Committee by furnishing reasons or circumstances thereof.

13. The provisions are clear that the management of the private unaided schools and permanently unaided schools are competent to propose the fees in such schools. However, such fee structure should be proposed in first and second parts and if no such fee structure is proposed to be declared, the fees shall not be increased more than 15%. For increasing fee structure, there must be a structure declared by the management and accepted by the parents. Hike in the fee structure depends on various aspects including inflation and up-gradation of the standards of the schools. However, where the management wishes to increase the fee after declaring the fee structure more than the fee structure declared or not in unforeseen events, however, the approval of 76% of the parents or Executive Committee by furnishing reasons or circumstances is essential.

14. The petitioner has a case that suddenly, the fee was hiked without following due procedure of law. Therefore, they moved a representation to the Deputy Director of Education, who in turn has sent it to the Committee. Sub-section 5 of Section 6 provides for the appeal either by the management or by the parents against the decision of the Executive Committee. Nothing is placed on record that the Executive Committee had taken a decision to increase the fees and made known to parents. For want of any such specific material, the objection of the management that appeal is not in

proper format would not sustain. Considering the number of parents signed the complaint with the number of students disclose, there appears no scope to believe that they were less than 25% of the students affected. *Prima facie*, they were the group of aggrieved parents.

15. The 2011 Act regulates the fees charged by the school run by the private management or Government. The said Act also defines the term 'fee' with different heads. However, it does not include the capitation fee. The petitioners have serious objection that the management has collected a huge amount from the parents under the head of contribution which was not the part of the fee as defined in the Act. These are the illegalities. The school/management has no explanation to that effect. Since the Regulation of Fee Act is in force, the management has no absolute right to charge the fees as per their whims and desire. To regulate the fees, the Act provides for the constitution of the Divisional Fee Regulatory Committee which has direct control over the fee to be charged by the management for the education.

16. Section 10 of the 2011 Act provides for the powers and functions of Divisional Fee Regulatory Committee. It has the power to adjudicate the dispute between the school/management and the Parent-Teacher Association regarding fee to be charged by the school/management from the students. It is a complete code to

examine the grievances of the respective parties. The Committee has powers to regulate its own procedure, for the discharge of its functions and have all powers of a Civil Court as is under the Code of Civil Procedure. The Regulatory Committee has also the power to grant interim stay to the fee determined by the school/management. Sub-section (6) of Section 10 provides that the Divisional Fee Regulatory Committee shall on determining the fee leviable by a private school, communicate its decision to the parties concerned and has to indicate the different heads under which the fee shall be levied. Its order is binding on the private school for two academic years. In an exceptional circumstance, it has also the power to review its order passed under the said Act.

17. Learned senior counsel for the petitioner has raised the serious objection that the Regulatory Committee should have determine the fees pursuant to the exorbitant increase in the fees. Relevant material was available before the Committee. However, an illegality has been committed authorizing the school/management once again to refix the educational fees for the academic year 2023-24. Obviously, the counsel for the contesting respondent has serious objection about it.

18. As discussed above, sub-section (6) of Section 10 authorize the Divisional Fee Regulatory Committee to determine the fee levied by the private school wherever there is dispute between the

school/management and the parents regarding the fee to be charged by the school/management from the students. The record also does not reveal that the parent-teacher association as required under the said Act was functioning at the relevant time. In such circumstances, the Committee was to determine the fee.

19. Reading the relevant provisions of law, we are of the opinion that the Committee has erred in authorizing the school/management once again to refix the educational fees for the academic year 2023. The Regulatory Committee had the power of discovering and production of documents and the respective evidence on affidavit. If such vast powers are there, the Committee should have exercised its powers to resolve the dispute which otherwise could not be decided by the parents and the management of the school. Hence, we are of the opinion that the order of the Committee directing the respondent/management of the school to refix the educational fees for the academic year 2023-24, is against the law.

20. So far as the appreciation of evidence of the parent's evidence is concerned, we consider it that it would not affect the rights of the aggrieved persons. By way of orders of this Court, the veracity of the signatures of the parents on the complaint dated 06.02.2023 was tested. Few of the persons came there and they were found to be genuine. If the school/management has a doubt about signatures of the parents, they should have name it specifically before

the Committee to verify the genuineness of the signatures. So far as the double signatures of the common parents are concerned, the possibility of having children more than one in the school of a single parent cannot be ruled out.

21. After examining the record, we are satisfied that the rules regulating the fees has not been properly implemented. Sufficient material to determine the dispute was available before the Committee. Hence, we deem it fit to relegate the matter to the Divisional Fee Regulatory Committee for determining the fees for the academic year 2023, by granting a fresh opportunity to both sides on examining necessary factors as provided under Section 9 of the 2011 Act.

22. In view of the above, we allow both these petitions partly.

23. The impugned judgment and order is quashed and set aside.

24. The matter is relegated to the Divisional Fee Regulatory Committee for deciding the issued involved in the matter afresh and determine the fee to be levied by the respondent/management in view of the 2011 Act.

25. Both parties are directed to appear before the Divisional Fee Regulatory Committee on 01.04.2025.

26. An endeavour shall be made by the Divisional Fee Regulatory Committee to determine the fees within two months

thereafter, till then, the management should not force the parents to pay the fees as increased by the school/management.

27. Rule is made partly absolute.

28. No order as to costs.

(SHAILESH P. BRAHME, J.) **(S.G. MEHARE, J.)**

Mujaheed//