



**LPA-409-2020 (O&M) &
LPA-447-2020 (O&M)**

-1-

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

232 (02 cases)

**LPA-409-2020 (O&M)
Date of Decision :21.08.2025**

Amandeep Singh and others

...Appellants

Versus

State of Punjab and others

...Respondents

LPA-447-2020 (O&M)

State of Punjab and others

...Appellants

Versus

Amandeep Singh and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI**

**Present: Mr. C.S. Bagri, Advocate for the appellants in LPA-409-2020
& for respondents in LPA-447-2020.**

**Mr. Rahul Rampal, Addl. A.G. Punjab
for appellant-State in LPA-447-2020 &
for respondent-State in LPA-409-2020.**

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Harsimran Singh Sethi, J. (Oral)

1. In the present set of two appeals, the challenge is to order dated



LPA-409-2020 (O&M) &
LPA-447-2020 (O&M)

-2-

30.06.2020 passed by the Single Bench of this Court in **CWP-7956-2020**
titled as Independent Schools' Association, Chandigarh (Regd.) and others
vs. State of Punjab and others by which, the bunch of petitions including
the one filed by the appellants herein was decided.

2. While deciding the said bunch of writ petitions, certain
directions were given by the Single Bench of this Court, which are as
follows:-

“Accordingly, the writ petitions filed by the parents
deserves to be disposed of in the same above terms.

In view of the above discussion and reasons for each of
the direction stated in the judgment above, the writ petitions
are disposed of as under:-

a) The schools are permitted to collect their admission
fee, henceforth.

(b) All schools irrespective whether they offered online
classes during the lock-down period or not, are entitled to
collect the tuition fee. However, they will continue to
endeavour and impart online/ distance learning so that
education is not adversely impacted due to the present or
future lockdowns imposed due to COVID-19.

(c) The school management of each schools shall work
out their actual expenditure incurred under the annual charges
for the period the school remained closed and recover only
such genuine expenditure incurred by them including actual
transport charges and actual building charges but shall not
recover any charge for this period for any activity or facility
towards which no expenditure was incurred. However, the
annual charges for the remaining period shall be recovered as
already fixed by the school;

(d) The schools shall restrain themselves for the
reasons, as mentioned above, from increasing the fee for the
year 2020-21 and adopt the same fee structure as of 2019- 20.

(e) Any parent not able to pay the school fee in the
above terms may file their application alongwith necessary
proof about their financial status, which shall be looked into by



**LPA-409-2020 (O&M) &
LPA-447-2020 (O&M)**

-3-

the school- authority and, after looking into it sympathetically, give concession or exempt the entire fee, as the case may be. In case the parent is still aggrieved, in any manner, with an adverse decision by the school on his application, he may approach the Regulatory Body, so constituted under Section 7 of the Punjab Regulation of fee of Un-aided Educational Institutions Act, 2016. No parent shall misuse the concession by laying a false claim.

(f) Section 7 of the Punjab Regulation of fee of Un-aided Educational Institutions Act, 2016 is already in place for looking into the complaints of the parents or guardians with regard to charging of any excessive fee or to do any other activity with the motive to give financial benefit or profit. The parents are at liberty to take recourse to the same and, therefore, no specific direction is required to be given by this Court separately;

(g) In case any school is facing a financial crunch for not having charged the increased fee for the year 2020-21, may move a representation to the District Education Officer alongwith its proof of the same, who shall look into it and pass appropriate orders within three weeks of the receipt of such an application. However, this may be exercised only in a very hard case where the school is facing financial crunch and has no reserved resources to meet the expenses.

(h) It is clarified that there is no modification in the direction Nos.(ii), (iii) and (v) of the impugned order dated 14.05.2020.

(i) There is also no modification in the direction No.(iv) of the order dated 14.05.2020 that no child will be deprived of attending the schools and online classes. However, the same is subject to the parent of such a child moving an application in terms of direction (e) above of this order and final decision on the said application.

Disposed of in the above terms”

3. Learned counsel for the appellants argues that none of the contentions raised by the petitioners therein in CWP-7956-2020 who are the appellants before this Court, who are the parents of the students, have been



**LPA-409-2020 (O&M) &
LPA-447-2020 (O&M)**

-4-

considered so as to grant them the relief which was prayed before the Court that keeping in view the Covid-19 pandemic, no fees should have been charged from the students concerned for the time period the pandemic persisted keeping in view the facts which have been mentioned in the writ petition, which relevant facts, for effective remedy of the students and their parents, have not been detailed or considered by the Single Bench while issuing the directions, which have been reproduced hereinbefore.

4. Learned counsel for the appellants further submits that once exceptional and unusual circumstances arose keeping in view the Covid-19 pandemic, the prayer of the parents for redressal of the grievance faced by them during such circumstances along with the plea of the institutions should have been considered in a balanced manner so that the parents of the students are also not made to pay for the charges included in the total fee of students which charges were for the services/ facilities which were not being availed by the students due to non-attending of school which was due to Covid-19 pandemic and which fee/charges was being demanded by the institutions without appreciating the fact Covid -19 pandemic was in force.

5. Learned counsel for the appellants submits that during the pendency of the present appeal keeping in view the order passed by the Coordinate Bench of this Court dated 01.10.2020, whereby direction was given to school that all the teachers be paid their salary as they were getting earlier and students be exempted of fee qua transportation provided by school which was non-functionable during Covid-19 pandemic, the matter had been taken up to the Hon'ble Supreme Court of India as the same issues were being faced by the students and schools throughout the country as other



**LPA-409-2020 (O&M) &
LPA-447-2020 (O&M)**

-5-

petitions were filed by various other schools and students concerned, the Hon'ble Supreme Court of India decided the lis while passing order in **Civil Appeal No.1724-2021 titled as Indian School Jodhpur and another vs. State of Rajasthan and others, decided on 03.05.2021** whereby direction was given to school that all teachers be paid their salary as they were getting earlier, and students be exempted of fee qua transportation provided by school, which was non-functionable during Covid-19 pandemic.

6. Learned counsel for the appellants submits that while deciding the said issue, a special permission was given by the Hon'ble Supreme Court of India to the appellants herein to press the present LPA on the ground raised and hence, the present appeals cannot be disposed of in terms of **Civil Appeal No.1724-2021 titled as Indian School Jodhpur and another vs. State of Rajasthan and others, decided on 03.05.2021.**

7. Learned counsel for the appellants argues that the claim of the appellants be decided on merits keeping in view the prayer raised in the writ petition by passing appropriate speaking order.

8. Thereafter, vide order dated 12.03.2021 passed by Hon'ble Supreme Court, the appeal which had generated from the interim order passed in LPA-421-2020, was disposed of on 16.09.2022 and as per the learned counsel for the appellants as per the said order the appeals pending before this Court are to be decided separately though, the interim orders passed by the Coordinate Bench of this Court dated 01.10.2020 & 09.10.2020 wherein certain directions were issued to the schools shall remained stayed during the pendency of the appeals.

9. We have heard learned counsel for the parties and have gone



**LPA-409-2020 (O&M) &
LPA-447-2020 (O&M)**

-6-

through the record with their able assistance.

10. It may be noticed that the appellants herein have filed a writ petition being CWP No.7956-2020 with the following prayers:-

“Civil writ petition under article 226 of the Constitution of India for issuance of a writ in the nature of Mandamus directing the respondents to issue notification/order/memo to the private unaided schools (hereinafter referred as schools) keeping in view situation created by COVID-19 pandemic, whereby the following specific and clear restrictions be imposed:-

- i. Not to charge any admission fee, annual charges, development charges etc. for the academic year 2020-2021 except the tuition fee which should also be in proportion to actual classes delivered online against the mandatory teaching hours set out by the concerned education boards.
- ii. Not to charge even tuition fee or a single penny from the parents whose wards are students of play-ways or pre-nursery to IIIrd standard as unable to attend the online classes being so young for the lockdown period.
- iii. Not to strike down the names of students from the school rolls and not to debar them from attending the ongoing online classes even if their parents are not in a position to pay the proportionate tuition fee due to loss of their jobs.
- iv. To utilize the "Unaided Educational Institution Development Fund" generated by all the private schools since their incorporation in transparent manner only to pay the salary of the school staff.
- v. Not to ask to pay tuition fee from the wards who do not have access to online classes.
- vi. Not to increase the tuition fee by merging other charges in the same and keep it same as in the previous academic session i.e., 2019-2020.
- vii. Not to opt subtle/coercive means to force the parents to pay fees.
- viii. To make public the profit and loss, balance sheets, ITRs, total amount of fees including tuition fees, annual fees, development charges, building funds, transportation fees etc.



**LPA-409-2020 (O&M) &
LPA-447-2020 (O&M)**

-7-

charged by these schools from the students for the last three years. And to show the remaining profit on the website and on the notice boards as well.

ix. To make public details of salaries which have been paid to various staff members for the months of April and May 2020 by each school.

X. To display and submit with the respondent, the calculation of amount being collected from all the students per month under the head of tuition fees only and proposed salaries due towards the teaching staff.

xi. To call for details of teaching and non-teaching staff expelled relieved, sent on compulsory leave or removed by these schools since March 2020.

xii. To refund the fee, admission fee, annual charges, development charges and charges for extra-curricular activities etc. obtained from the parents either prior to or during the lockdown for the session 2020-2021.

xiii. To cancel the N.O.C/recognition of said school and write to the concerned Board to cancel the affiliation of erring schools who are violating the order/memos issued by respondents (i.e. increase in tuition fees, received fees, admission fees etc. by coercing the parents) in general and especially in view of order dated 08.04.2020 (P-2).

xiv. To appoint District Education Officer or any other authority in each district and at sub-division levels to whom complaints can be addressed against the erring schools by the parents and the teachers. The authority so appointed must be duly vested with powers to take strong action against the erring schools.

AND

In alternative issue a writ in the nature of Mandamus directing the respondent State to take over charge and management of private unaided schools if they failed to conveniently run to discharge their obligations imposed by Constitution of India the Right of Children Free and Compulsory Education Act, 2009 as these are non-profiteering and non-commercial institutions came into existence on the lands allotted by the State and hard earned money of the parents including petitioners.



**LPA-409-2020 (O&M) &
LPA-447-2020 (O&M)**

-8-

AND

Further to issue a writ in the nature of Certiorari to quash:

- i. Only that part of the direction contained in point. no. 2.0 of memo/order dated 14.05.2020 (P-4) and similar such direction contained in order/memo dated 23.03.2020 (P-2) whereby private unaided schools are granted liberty to collect the admission fee after one month of normalization of circumstances.
- ii. That part of direction 3.0 (i) of memo order dated 14.05.2020 (P-4) whereby such schools have been permitted to collect the fee for summer break and are permitted to collect the tuition fee who are offering online classes in view of the direction sought above.

Meanwhile the schools may be and debarring them from attending the online classes during the pendency of this petition.

AND

For passing any other order(s) or direction(s) in favour of the petitioner, which this Hon'ble Court may deem fit and proper in the light of the facts and circumstances of the present case.”

11. A bare perusal of the prayers would show that all the prayers relate qua the issuance of directions to the schools that the children of the petitioners should be granted the said relief at the hands of the schools.

12. It may be noticed that though, the relief were being claimed against the school concerned but no school where the children of the petitioners therein were studying, against whom the relief was being sought, was even made party respondent to the petition.

13. It is a settled principle of law that in case a relief is claimed against a particular institution, the said institution has to be made a party to the petition so that an opportunity of hearing is given to such institution before any order is passed by the competent Court of law causing prejudice



**LPA-409-2020 (O&M) &
LPA-447-2020 (O&M)**

-9-

to such institution.

14. Learned counsel for the appellants very fairly concedes that in case the prayers raised by the petitioners in the writ petition, is allowed by this Court while dealing with present bunch of appeals, the same have to be complied with by the schools where the children of the appellants are/were studying.

15. None of the school against whom the relief is sought, has been made a party to the appeal and therefore, no direction can be given to any institution which is not a party to the appeal and will likely to be affected by the outcome of the appeal.

16. It may be noticed that law on the said issue has already been settled by the Hon'ble Supreme Court of India in **Civil Appeal Nos.5755-5756 of 2011 titled as Moreshar Yadaorao Mahajan vs. Vyankatesh Sitaram Bhedi (D) through LRs and others decided on 27.09.2022.**

Relevant paragraphs of the said judgment are as under: _

17. This Court, in the case of [Mumbai International Airport Private Limited](#) (supra), has observed thus:

“15. A “necessary party” is a person who ought to have been joined as a party and in whose absence no effective decree could be passed at all by the court. If a “necessary party” is not impleaded, the suit itself is liable to be dismissed. A “proper party” is a party who, though not a necessary party, is a person whose presence would enable the court to completely, effectively and adequately adjudicate upon all matters in dispute in the suit, though he need not be a person in favour of or against whom the decree is to be made. If a person is not found to be a proper or necessary party, the court has no jurisdiction to implead him, against the wishes of the plaintiff. The fact that a person is likely to secure a right/interest in a suit property, after the suit is decided against the plaintiff, will not make such person a necessary party or a proper party to the suit for specific performance.”



18. It could thus be seen that a “necessary party” is a person who ought to have been joined as a party and in whose absence no effective decree could be passed at all by the court. It has been held that if a “necessary party” is not impleaded, the suit itself is liable to be dismissed.”

17. Learned counsel for the appellants argues that at the time when the hearing was being conducted, the association of the schools had also filed a petition and the appellants became party to the said petition.

18. It may be noticed that intervening application filed by the intervenor therein was only to deny the claim which was raised by the association of schools, which is entirely different than the one being claimed by the petitioners in their writ petition.

19. Furthermore, all those petitions were disposed of by the learned Single Judge by the same order and though, the schools had also filed an appeal against said order of Single Bench but the same had been withdrawn in view of the order passed by the Hon’ble Supreme Court of India dated 03.05.2021.

20. Further, no description of any school has been given as well as qua the aspect as to what fees is being charged by such school from its students and to whom the direction is to be given by this Court even if, the prayer of the appellants herein is to be accepted. Hence, no effective direction can be given in the absence of schools being party to the writ petition and the appeal, against whom relief has been sought by the appellants herein while considering the appeal against the decision in the writ petition filed by them decided by the Single Bench of this Court .

21. The argument of the learned counsel for the appellants that as per the order passed by the Hon’ble Supreme Court of India, the lis raised by



**LPA-409-2020 (O&M) &
LPA-447-2020 (O&M)**

-11-

the appellants herein is to be decided on merits independently, it may be noticed that the lis can only be decided if all the parties to the lis are before the Court keeping in view the relief claimed. It is a conceded position that the prayer of the petitioners who are now appellants before this Court is against the schools where wards of the petitioners are/were studying, who are not made a party to the litigation even as of now.

22. Keeping in view the totality of the circumstances, no effective order can be passed upon the prayer made by the petitioners, appellants herein even if, it is assumed for the sake of argument that the said prayers are to be accepted.

23. Learned counsel for the appellants argues that no such objection that the schools have not been made a party to the petition, was taken by the learned Single Judge while deciding the writ petition filed by the appellants herein and therefore, the same cannot be taken as a ground by the Division Bench in an appeal preferred by the appellants to deny the relief prayed for.

24. In that regard, it may be noticed that in the order passed by Single Bench, no specific direction had been given to any specific school though, the general directions had been given to certain schools which directions will be made applicable upon the schools where the children of the appellants are/were studying but the appellants not being satisfied with such directions, preferred any appeal against the said order but wants the relief against the schools, which has been reproduced in the preceding paragraphs.

25. Once, this Court is to issue further direction to the schools concerned on the asking of the appellants in case prayer of the appellants is

to be accepted, the same can only be granted after giving opportunity of hearing to the specific schools qua their contentions/arguments qua those relief claimed by the appellants by the concerned schools where the children of the appellants are/were studying, against which schools the relief has been sought. Hence, the argument that such an objection was not taken by the learned Single Judge while deciding the writ petition and the same cannot be taken by this Court, cannot be accepted.

26. Learned counsel for the appellants further submits that all the prayers which have been raised by the appellants are not only against the schools but have also been raised against the State as well and the reliance is being placed upon the prayers that have been made, the direction have been sought against the State and not against the specific school.

27. It may be noticed that a bare perusal of the prayers made in the writ petition, which have been reproduced in the preceding paragraphs would show that even the prayers made qua direction to be given to the State is qua passing of an order by the State against the schools directing such schools to perform their duty in particular manner and not to charge surplus fees from the children of the appellants. No direction has been pointed out by learned counsel for the appellant to this Court, which is only qua the State but does not affect any of the school against whom the prayers have been made. All the prayers made even against the State is for further directing the school concerned qua one aspect or another hence, even if direction is sought against the State but even those directions are to be ultimately passed against the concerned school. Hence, prayer of the appellants has to be looked into with the lens that what is the ultimate relief



**LPA-409-2020 (O&M) &
LPA-447-2020 (O&M)**

-13-

sought by the appellants and ultimately against whom such relief is prayed for. In totality all the relief either directly or through State has been claimed against the schools without such schools being made party to the petition/appeal or even giving the description of such schools against whom the appellants are aggrieved.

23. Keeping in view the facts and circumstances recorded hereinbefore, the present appeals are dismissed but a liberty is given to the appellants that in case they are aggrieved against any act of the school where their children were studying qua the issue of charging of excess fee or any other such grievance, they can file appropriate writ petition against such school by impleading the said school as a party so that appropriate decision could be arrived at after giving due opportunity of hearing to all the concerned.

24. All the pending civil miscellaneous application stand disposed of.

25. A photocopy of this order be placed on the file of connected case.

(HARSIMRAN SINGH SETHI)
JUDGE

August 21, 2025
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(VIKAS SURI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No