

(2013) 09 MAD CK 0239

In the Madras High Court

Case No : Writ Petition No. 23015 of 2013 and M.P. No's. 1 and 2 of 2013

C.K. School of Practical Knowledge Matriculation Higher
Secondary School

APPELLANT

Vs

The Government of Tamil Nadu and The Private Schools Fee
Determination Committee

RESPONDENT

Date of Decision : 18-09-2013

Acts Referred:

Citation : (2013) 09 MAD CK 0239

Hon'ble Judges : R. Subbiah, J;R. Banumathi, J

Bench : Division Bench

Advocate : Hema Muralikrishnan, for the Appellant; P. Sanjay Gandhi, Addl.
Govt. Pleader, for the Respondent

Final Decision : Disposed Off

Judgement

R. Banumathi, J.—The writ petitioner, who is an unaided private school has filed the writ petition challenging the final order/fee structure prescribed by the School Fee Determination Committee on the ground of arbitrariness and that it is not in conformity with Tamil Nadu Schools (Regulation of Collection of Fee) Act, 2009 (Tamil Nadu Act 22 of 2009) and the directions issued by the Division Bench of this Court in W.P. No. 8489 of 2011 dated 03.5.2012. Petitioner school is self-financing/private unaided school and is a unit of Chinnikrishnan Memorial Trust and was supported by Cavin Kare Private Limited. To regulate the collection of fee by the private schools in the State of Tamil Nadu, Tamil Nadu Schools (Regulation of Collection of Fee) Act, 2009 was enacted. The vires of Tamil Nadu Schools (Regulation of Collection of Fee) Act, 2009 and Rules were upheld by this Court (except Section 11 of the Act and Rules 4(4) and 4(5) of the Rules) [Vide Tamil Nadu Nursery Matriculation and Higher Secondary Schools Association (Regd.) Vs. The State of Tamil Nadu and Others,].

2. Earlier, various orders passed by the Committee was challenged before this Court on the ground of arbitrariness. By the common order dated 03.5.2012

(W.P. No. 8489 of 2011 etc. Batch), all the writ petitions were remitted back to the Committee with a direction to afford sufficient opportunity to the schools and pass fresh orders. In the said order, this Court inter alia issued guidelines for fixation of school fee in respect of (i) salary to teaching and non-teaching staff; (ii) employees provident fund; (iii) contribution to employees State Insurance Corporation; (iv) gratuity and such other head shall be considered based on the bills produced. Various guidelines were issued in Para Nos. 88 to 117 and 152.

3. Ms. Hema Muralikrishnan, learned counsel for the Petitioner school submitted that the directions of the Division Bench in W.P. No. 8489 of 2011 etc. batch dated 03.05.2012 indicated in Paras 103 and 104 in respect of the depreciation was not considered by the Committee. Drawing our attention to the earlier directions issued in Paras 103 and 104 of the common judgment dated 03.05.2012 in W.P. No. 8489 of 2011 etc. batch, the learned counsel for the Petitioner school has submitted that inspite of the clear guidelines, the Committee has not allowed the recurring expenditure of maintenance of building, campus, playground, laboratory, fixtures, replacement of furniture, equipments, computers, audit and legal fees under the miscellaneous expenditure. The learned counsel also submitted that 10% increase in respect of the expenditure given for the academic years 2014-2015 and 2015-2016 is only in respect of increase in the expenditure under the head salary and allowances and the Committee has not factored the increase in expenditure under other heads for the academic years 2014-2015 and 2015-2016. According to the Petitioner school, 10% increase in the expenditure only under the head salary and allowance would leave a huge deficit for the forthcoming academic years and therefore, prays for remitting the matter back to the Committee, so that the petitioner school can establish their case by placing materials and also the audited statement before the Committee to substantiate the stand of the Petitioner school.

4. Refuting the contentions of the learned Senior Counsel for the Petitioner school, Mr. P. Sanjay Gandhi, learned Additional Government Pleader submitted that all the guidelines issued by the Court in W.P. No. 8489 of 2011 etc. batch (3.5.2012) were taken into account by the Committee. The learned Additional Government Pleader also submitted that the impugned order was passed by the Committee u/s 6(1) of the Tamil Nadu Schools (Regulation of Collection of Fee) Act and as per the statutory mandate u/s 6(3), the Petitioner school ought to have filed its objection before the Committee within a period of 15 days and without doing so, the Petitioner school has hurriedly filed the writ petition and therefore, the prayer sought for by the Petitioner school cannot be granted in the writ petition.

5. By perusal of the typed set of papers and materials, it is seen that the impugned order was passed u/s 6(1) of the Act which is a provisional order. Section 6(1) of the Act contemplates that the Committee shall determine the fee leviable by a private school taking into account the factors indicated in Section

6(1) of the Act. In terms of Section 6(2), the Committee shall, on determining the fee leviable by a private school, communicate its decision to the school concerned. In terms of Section 6(3), any private school aggrieved over the decision of the Committee shall file their objection before the Committee within 15 days from the date of receipt of the decision of the Committee. Thereafter, the Committee shall pass the orders fixing the fee to be collected by the schools.

6. Section 6 reads as under:-

Factors for determination of fee.-(1) The Committee shall determine the fee leviable by a private school taking into account the following factors, namely:-

- (a) the location of the private school;
 - (b) the available infrastructure;
 - (c) the expenditure on administration and maintenance;
 - (d) the reasonable surplus required for the growth and development of the private school;
 - (e) any other factors as may be prescribed.
- (2) The Committee shall, on determining the fee leviable by a private school, communicate its decision to the school concerned.
- (3) Any private school aggrieved over the decision of the Committee shall file their objection before the Committee within fifteen days from the date of receipt of the decision of the Committee.
- (4) The Committee shall consider the objection of the private school and pass orders within thirty days from the date of receipt of such objection.
- (5) The orders passed by the Committee shall be final and binding on the private school for three academic years. At the end of the said period, the private school would be at liberty to apply for revision.
- (6) The Committee shall indicate the different heads under which the fee shall be levied.

7. As pointed out earlier, by perusal of the impugned order, it is seen that the order has been passed u/s 6(1) of the Act. However, instead of giving opportunity to the Petitioner school to file their objections, the Committee is said to have passed the final order determining the fee structure. Learned counsel for Petitioner drew our attention to various expenditure incurred by the Petitioner school on maintenance of building; playground; laboratory; fixtures; replacement of furniture; equipments; computers; audit and legal fees. Having regard to the submissions, we are of the view that the Petitioner school is entitled to have an opportunity to file their objections in terms of Section 6(3) of the Act.

8. Considering the submissions made by the learned counsel for Petitioner school

and the learned Additional Government Pleader, we are of the view that the impugned order shall be treated as the order passed u/s 6(1) of the Act and the Petitioner school shall file their objections before the Committee within a period of fifteen (15) days from the date of receipt of copy of this order. On filing such objections before the Committee, the Committee shall afford sufficient opportunity to the Petitioner school to submit any further details with supporting documents and pass orders in accordance with law. With the above observation and directions, the Writ Petition is disposed of. It is made clear that till the Committee passes the final order, the Petitioner school shall collect only the fee fixed by the Committee in the impugned order. Consequently, connected Miscellaneous Petition is closed. No costs.