

(2008) 09 MAD CK 0019

In the Madras High Court

Case No : Writ Petition No's. 20666, 23268, 25284, 25351, 25704 and 26250 of 2007 and connected Miscellaneous Petitions

Dr. Rajah Muthiah Chettiar Charitable and Educational Trust APPELLANT
Vs

State of Tamil Nadu, The Permanent Committee for the RESPONDENT
Fixation of Fees in Self Financing Professional Colleges and
The Director of Medical Education

Date of Decision : 30-09-2008

Acts Referred:

Constitution of India, 1950 — Article 142, 19(1)(g), 30(1)
Tamil Nadu Educational Institutions (Prohibition of Capitation Fee) Act, 1992 — Section 4

Citation : (2008) 09 MAD CK 0019

Hon'ble Judges : A.K.Ganguly, C.J;F.M. Ibrahim Kalifulla, J

Bench : Division Bench

Advocate : Nageswara Rao, for Mr. Sathish Parasaran, Mr. R. Krishnamoorthy, for Mr. D. Balaraman in W.P. No. 23268 of 2007, Mr. N.G.R. Prasad for M/s Row and Reddy in W.P. No. 25284 of 2007, Mr. N.G.R. Prasad for M/s Row and Reddy in W.P. No. 25351 of 2007, Ms. B. Saraswathi in W.P. No. 25704 of 2007, Mr. N.G.R. Prasad for M/s Row and Reddy in W.P. No. 26250 of 2007, for the Appellant; G. Sankaran, Special Govt. Pleader (Edn.), Mr. G. Sankaran, Special Govt. Pleader (Edn.) for R1 and R2, Mr. N.R. Chandran, for Mr. V. Chandrakanthan for R3 to R26 and Mr. N.G.R. Prasad for M/s Row and Reddy for R27 in W.P. No. 23268 of 2007, Mr. G. Sankaran, Special Govt. Pleader (Edn.) for R1 to R3, Mr. Nageswara Rao, for Mr. Sathish Parasaran for R4, Mr. R. Krishnamoorthy, for Mr. D. Balaraman for R5 and Ms. B. Saraswathi for R6 in W.P. No. 25284 of 2007, Mr. G. Sankaran, Special Govt. Pleader (Edn.) for R1 to R3, Mr. Nageswara Rao, for Mr. Sathish Parasaran for R4 in W.P. No. 25351 of 2007, Mr. G. Sankaran, Special Govt. Pleader (Edn.) in W.P. No. 25704 of 2007 and Mr. G. Sankaran, Special Govt. Pleader (Edn.) for R1 to R3 and Mr. R. Krishnamoorthy, for Mr. D. Balaraman for R4 in in W.P. No. 26250 of 2007, for the Respondent

Judgement

F.M. Ibrahim Kalifulla, J.—In W.P. No. 20666 of 2007, the petitioner seeks to challenge the proceedings of the second respondent

Committee passed in No.PC/Medical Fee/2007-3 dated 4.6.2007. While seeking to quash the said proceedings, the petitioner seeks for a

direction to the second respondent to approve the tuition fee for the M.B.B.S. Degree Course in respect of the petitioner institution for the

academic year 2007-2008 onwards as claimed by the petitioner at Rs.4,05,000/- per student per annum. In W.P. No. 23268 of 2007, the

petitioner seeks to challenge the proceedings of the second respondent Committee in Proceedings No.PC/Medical Fee/2007-2 dated 19.3.2007,

to quash the said proceedings and consequently direct the second respondent to approve the annual fee of Rs.4,05,000/- as proposed by the

petitioner.

2. In W.P. No. 25704 of 2007, the petitioner seeks to challenge the proceedings of the second respondent Committee in Proceedings

No.PC/Medical Fee/2007-4 dated 18.6.2007 pertaining to its institution ""Sri Mookambika Institute of Medical Sciences"" at Kulasekharam,

Kanyakumari District, quash the said proceedings and consequently direct the second respondent to approve the annual tuition fee of

Rs.4,00,000/- per student as proposed by the petitioner.

3. W.P. No. 25284 of 2007 has been filed by the Secretary of the Students Federation of India, Tamil Nadu State Committee, seeking for the

issuance of a Writ of Declaration, declaring the action of the third respondent in that writ petition, namely, the Permanent Committee for Fixation of

Fees in Self Financing Professional Colleges, in having fixed the tuition fees in respect of the petitioners in W.P. Nos. 20666, 23268 & 25704 of

2007 in a sum of Rs.3,00,000/-, Rs.2,25,000/- and Rs.2,30,000/- in its proceedings dated 4.6.2007, 19.3.2007 & 18.6.2007 respectively as

illegal, arbitrary and unconstitutional and direct the said Committee to consider and fix the appropriate fees in respect of those institutions by

applying the principles laid down by the Hon''ble Supreme Court within a reasonable time frame.

4. In W.P. No. 25351 of 2007, the Parents Association of Students studying under Government Quota in Self Financing Private Medical Colleges

of Tamil Nadu seek for a similar direction as claimed in W.P. No. 25284 of 2007 in respect of the petitioner in W.P. No. 20666 of 2007. The

very same petitioners have preferred W.P. No. 26250 of 2007 for an identical

relief in respect of the petitioner in W.P. No. 23268 of 2007.

5. A perusal of the reliefs claimed in the above referred to writ petitions discloses that on the one hand, the respective institutions are aggrieved as

against the tuition fee fixed by the Permanent Committee for the Fixation of Fees in Self Financing Professional Colleges by contending that the

tuition fee fixed therein is on the lower side, the Students Federation of India, Tamil Nadu State Committee and the Parents Association of

Students studying under Government Quota in Self Financing Private Medical Colleges in Tamil Nadu are aggrieved against the very same

proceedings on the ground that the tuition fee fixed therein is on the higher side. For the sake of convenience, the parties, namely, the petitioner in

W.P. No. 20666 of 2007 will be hereinafter referred to as the ""Chettinad Hospitals and Re-search Institute"", the petitioner in W.P. No. 23268 of

2007 as the ""P.S.G. Institute of Medical Sciences and Research"", the petitioner in W.P. No. 25704 of 2007 as the ""Sri Mookambika Institute of

Medical Sciences"", the petitioner in W.P. No. 25284 of 2007 as the ""Students Federation of India"" and the petitioners in W.P. Nos. 25351 &

26250 of 2007 as the ""Parents Association"". Though the Permanent Committee for the Fixation of Fees in Self Financing Professional Colleges has

been arrayed in different status in the above writ petitions, it will be hereinafter referred to as the ""Permanent Committee"" and the other statutory

respondents, namely, the State Government and the Director of Medical Education, as the ""State Government"" and the ""Director of Medical

Education"".

6. Before us, on behalf of Chettinad Hospitals and Research Institute, arguments were addressed by Mr.Nageswara Rao, learned senior counsel

along with Mr.Sathish Parasaran. Mr.R.Krishnamoorthy, learned Senior Counsel addressed arguments on behalf of P.S.G.Institute of Medical

Sciences and Research and Ms.B.Saraswathi, learned counsel addressed arguments on behalf of Sri Mookambika Institute of Medical Sciences.

On behalf of the Students Federation of India and Parents Association, Mr.N.G.R.Prasad, learned counsel addressed arguments and

Mr.N.R.Chandran, learned senior counsel addressed arguments on behalf of the parents of the students undergoing the course in P.S.G.Institute of

Medical Sciences and Research. We also heard the arguments of Mr.G.Sankaran,

learned Special Government Pleader (Education) on behalf of the State.

7. Mr.Nageswara Rao, learned senior counsel, after making a detailed reference to the decisions of the Hon''ble Supreme Court in T.M.A.Pai

Foundation and others v. State of Karnataka and others, (2002) 8 SCC 481 (hereinafter referred to as the ""T.M.A.Pai Foundation""), Islamic

Academy of Education and another v. State of Karnataka and others, (2003) 6 SCC 687 (hereinafter referred to as the ""Islamic Academy of

Education-I""), Islamic Academy of Education and another v. State of Karnataka and others, (2004) 8 SCC 217 (hereinafter referred to as the

Islamic Academy of Education-H"") and P.A.Inamdar and others v. State of Maharashtra and others, (2005) 6 SCC 537 (hereinafter referred to

as the ""P.A.Inamdar""), contended that in the impugned order passed in respect of Chettinad Hospitals and Research Institute, the Permanent

Committee completely omitted to apply the various criteria laid down by the Hon''ble Supreme Court for fee fixation, that there was total non-

application of mind while fixing the annual tuition fee by the Permanent Committee, that the impugned order is liable to be set aside and the fee as

claimed by the Chettinad Hospitals and Research Institute should be directed to be fixed. According to the learned senior counsel, the impugned

order is liable to be set aside on the ground of serious illegality and irrationality in the decision making process of the Permanent Committee. The

learned senior counsel, contended that the order is illegal as the same is not in conformity with the directions of the Hon''ble Supreme Court and

irrational because there were no reasons recorded for scaling down the request of the institution in the matter of fixation of fee.

8. Mr.R.Krishnamoorthy, learned senior counsel appearing for P.S.G.Institute of Medical Sciences and Research, while reiterating the contentions

of Mr.Nageswara Rao, also submitted that the Permanent Committee appointed a sub-committee to examine the correctness of the claim made by

the institution and that the said sub-committee failed to hold proper deliberations with the management, that there was also total failure in

considering the relevant materials in the matter of fixation of fee and therefore the consequential order passed by the Permanent Committee, as

impugned in the writ petition, is liable to be set aside. The main grievance

canvassed on behalf of the P.S.G.Institute of Medical Sciences and

Research was that there was violation of principles of natural justice, inasmuch as, without furnishing the report of the sub-committee and without

affording an opportunity of personal hearing, the Permanent Committee proceeded to fix the fee and in that process, grave injustice has been

caused to the said institution. The learned senior counsel contended that very many detailed particulars as regards the investments made by the

institution, as placed before the Permanent Committee as well as the sub-committee, were not considered at all while fixing the annual tuition fee

payable by a student and consequently the impugned order is liable to be set aside.

9. Ms.B.Saraswathi, learned counsel appearing for Sri Mookambika Institute of Medical Sciences in her submissions reiterated the contentions of

M/s.Nageswara Rao and R.Krishnamoorthy and submitted that the fee fixed in a sum of Rs.2,30,000/- as against the claim of Rs.4,00,000/- was

totally irrational compared to the infrastructure facilities provided by the said institution and therefore the same is liable to be set aside.

10. Mr.N.R.Chandran, learned senior counsel appearing for the students undergoing the course in P.S.G.Institute of Medical Sciences and

Research contended that they are prepared to pay the fee fixed by the Permanent Committee in its order dated 19.3.2007 and that the said order

does not call for interference.

11. Mr.N.G.R.Prasad, learned counsel appearing for the Students Federation of India and the Parents Association in his arguments submitted that

in the various decisions of the Hon"ble Supreme Court, the direction for formation of a Permanent Committee was made only as an alternate to the

constitution of a statutory committee, that in the State of Tamil Nadu, since in the year 1992 itself, the Tamil Nadu Educational Institutions

(Prohibition of Collection of Capitation Fee) Act, 1992 (Act 57 of 1992) hereinafter called the 1992 Act, had come into effect and the said Act

specifically provides for constitution of a Committee, the State Government should be directed to constitute a committee under the said Act for the

purpose of fixation of annual tuition fee payable by the students. According to the learned counsel, when avoidance of profiteering and collection of

capitation fee to be curbed have been repeatedly stressed by the Hon"ble

Supreme Court in T.M.A.Pai Foundation, Islamic Academy of

Education-I and P.A.Inamdar the statutorily constituted committee alone will be able to achieve the above objective. The learned counsel,

therefore, laid stress on the point that the exercise of fixation of fee should be directed to be carried out by a statutory committee constituted by the

State Government.

12. The learned Special Government Pleader (Education) in his submissions brought to our notice that the State Government has issued an

amendment to Section 4 of 1992 Act in G.O.Ms. No. 226 Higher Education (J2) Department dated 11.7.2007 in and by which, the Permanent

Committee already constituted as per the directions of the Hon''ble Supreme Court has been treated as the committee to function as provided u/s 4

of the 1992 Act. The learned Special Government Pleader therefore contended that the Permanent Committee has now acquired a statutory status

under the provisions of the 1992 Act and the committee's decisions are binding on the parties.

13. Having heard the learned counsel for the parties, we find that the primary submissions of all the counsel were based on the various principles

set out in the decisions of the Hon''ble Supreme Court in T.M.A.Pai Foundation, Islamic Academy of Education-I as well as in P.A.Inamdar. We,

therefore, deem it appropriate to highlight the principles set out by the Hon''ble Supreme Court in the first instance before attempting to examine

the correctness of the orders impugned in the writ petitions as well as the grievances of the Students Federation of India and the Parents

Association.

14. Though the Constitution Bench decision in Unnikrishnan J.P. and others v. State of Andhra Pradesh and others, (1993) 1 SCC 645, popularly

known as Unnikrishnan judgment, is a preface to the issue, namely, the fixation of fee for professional colleges, we are of the view that what was

stated earlier by the Hon''ble Supreme Court in the said decision needs to be stated here. The Hon''ble Supreme Court in the ultimate scheme set

out in Unnikrishnan judgment in paragraph-210-(6)(a) to (d), issued directions to the various statutory authorities to monitor the fixation of fee. The

Supreme Court also directed the Government to constitute a committee to fix the ceiling on the fees chargeable by professional colleges or the

class of professional colleges, as the case may be. In the larger Bench decision of the Hon''ble Supreme Court in T.M.A.Pai Foundation, the

Hon''ble Supreme Court held as under in paragraph-45:

45. In view of the discussion hereinabove, we hold that the decision in Unnikrishnan case insofar as it framed the scheme relating to the grant of

admission and the fixing of the fee, was not correct, and to that extent, the said decision and the consequent directions given to UGC, AICTE, the

Medical Council of India, the Central and State Governments etc., are overruled.

15. Thus, what was said in the Unnikrishnan judgment stood overruled by the decision of the larger Bench in T.M.A.Pai Foundation case.

Thereafter, the Hon''ble Supreme Court went on to state that the right to establish and administer private unaided non-minority educational

institutions broadly comprises the rights to admit students, to set up a reasonable fee structure, to constitute a governing body, to appoint staff

(teaching and non-teaching) and to take action if there is dereliction of duty on the part of any of its employees. In Paragraph-53, the Hon''ble

Supreme Court stated as under:

53.....Furthermore, in setting up a reasonable fee structure, the element of profiteering is not as yet accepted in Indian conditions. The fee

structure must take into consideration the need to generate funds to be utilized for the betterment and growth of the educational institution, the

betterment of education in that institution and to provide facilities necessary for the benefit of the students.....

16. Again in paragraph-56, the Hon''ble Supreme Court has held as under:

An educational institution is established for the purpose of imparting education of the type made available by the institution. Different courses of

study are usually taught by teachers who have to be recruited as per qualifications that may be prescribed. It is no secret that better working

conditions will attract better teachers. More amenities will ensure that better students seek admission to that institution. One cannot lose sight of the

fact that providing good amenities to the students in the form of competent teaching faculty and other infrastructure costs money. It has. therefore,

to be left to the institution, if it chooses not to seek any aid from the Government, to determine the scale of fee that it can charge from the students.

One also cannot lose sight of the fact that we live in a competitive world today,

where professional education is in demand. We have been given to understand that a large number of professional and other institutions have been started by private parties who do not seek any governmental aid. In a sense, a prospective student has various options open to him/her where, therefore, normally economic forces have a role to play. The decision on the fee to be charged must necessarily be left to the private educational institution that does not seek or is not dependent upon any funds from the Government.

17. In paragraph-57, the Hon"ble Supreme Court emphasised the point that the occupation of education is regarded as charitable and the Government, while can provide regulations that will ensure excellence in education, should forbid the charging of capitation fee and profiteering by the institution. The Hon"ble Supreme Court laid stress to the objective namely, the occupation of education being charitable, the fixation of fee should not run counter to the said objective and thereby enable any institution to make a profit while establishing an educational institution. In other words though there can be a reasonable revenue surplus, such attempt should be only for the purpose of development of education and expansion of the institution. Again in paragraph-69, the Hon"ble Supreme Court while reiterating the objective, namely, that a rational fee structure should be adopted by the management and appropriate machinery can be devised by the State or University to ensure that no capitation fee is charged and that there is no profiteering, a reasonable surplus is permissible. Ultimately, while answering the questions framed, the larger Bench held as under for question no.5 in paragraph-161 insofar as it related to the charging of fee by the unaided institution:

Fees to be charged by unaided institutions cannot be regulated but no institution should charge capitation fee.

18. In the Islamic Academy of Education-I, the Constitution Bench in its majority judgment, framed four questions for consideration and the first question was ""whether the educational institutions are entitled to fix their own fee structure."" While answering the said question, the Hon"ble Supreme Court held as under in paragraphs 7 & 8:

7. So far as the first question is concerned, in our view the majority judgment is very clear. There can be no fixing of a rigid fee structure by the

Government. Each institute must have the freedom to fix its own fee structure taking into consideration the need to generate funds to run the institution and to provide facilities necessary for the benefit of the students. They must also be able to generate surplus which must be used for the betterment and growth of that educational institution. In paragraph 56 of the judgment it has been categorically laid down that the decision on the fees to be charged must necessarily be left to the private educational institutions that do not seek and which are not dependent upon any funds from the Government. Each institute will be entitled to have its own fee structure. The fee structure for each institute must be fixed keeping in mind the infrastructure and facilities available, the investments made, salaries paid to the teachers and staff, future plans for expansion and/or betterment of the institution etc. Of course there can be no profiteering and capitation fees cannot be charged. It thus needs to be emphasized that as per the majority judgment imparting of education is essentially charitable in nature. Thus the surplus/profit that can be generated must be only for the benefit/use of that educational institution. Profits/surplus cannot be diverted for any other use or purpose and cannot be used for personal gain or for any other business or enterprise. As, at present, there are statutes/regulations which govern the fixation of fees and as this Court has not yet considered the validity of those statutes/regulations, we direct that in order to give effect to the judgment in T.M.A. Pai case the respective State Governments/concerned authority shall set up, in each State, a committee headed by a retired High Court Judge who shall be nominated by the Chief Justice of that State. The other member, who shall be nominated by the Judge, should be a Chartered Accountant of repute. A representative of the Medical Council of India (in short "MCI") or the All India Council for Technical Education (in short "AICTE"), depending on the type of institution, shall also be a member. The Secretary of the State Government in charge of Medical Education or Technical Education, as the case may be, shall be a member and Secretary of the Committee. The Committee should be free to nominate/co-opt another independent person of repute, so that the total number of members of the Committee shall not exceed five. Each educational institute must place before this Committee, well in advance of the academic year, its proposed fee structure. Along with the proposed fee structure all relevant documents and

books of accounts must also be produced before the Committee for their scrutiny. The Committee shall then decide whether the fees proposed by

that institute are justified and are not profiteering or charging capitation fee. The Committee will be at liberty to approve the fee structure or to

propose some other fee which can be charged by the institute. The fee fixed by the Committee shall be binding for a period of three years, at the

end of which period the institute would be at liberty to apply for revision. Once fees are fixed by the Committee, the institute cannot charge either

directly or indirectly any other amount over and above the amount fixed as fees. If any other amount is charged, under any other head or guise e.g.

donations, the same would amount to charging of capitation fee. The Governments/appropriate authorities should consider framing appropriate

regulations, if not already framed, where-under if it is found that an institution is charging capitation fees or profiteering that institution can be

appropriately penalised and also face the prospect of losing its recognition/affiliation.

8. It must be mentioned that during arguments it was pointed out to us that some educational institutions are collecting, in advance, the fees for the

entire course i.e. for all the years. It was submitted that this was done because the institute was not sure whether the student would leave the

institute midstream. It was submitted that if the student left the course in midstream then for the remaining years the seat would lie vacant and the

institute would suffer. In our view an educational institution can only charge prescribed fees for one semester/year. If an institution feels that any

particular student may leave in midstream then, at the highest, it may require that student to give a bond/bank guarantee that the balance fees for the

whole course would be received by the institute even if the student left in midstream. If any educational institution has collected fees in advance,

only the fees of that semester/year can be used by the institution. The balance fees must be kept invested in fixed deposits in a nationalised bank.

As and when fees fall due for a semester/year only the fees falling due for that semester/year can be withdrawn by the institution. The rest must

continue to remain deposited till such time that they fall due. At the end of the course the interest earned on these deposits must be paid to the

student from whom the fees were collected in advance.

19. Justice S.B. Sinha, J., in His Lordship's separate judgment, toed in line with the majority view but gave His Lordship's own reasons as regards

the fixation of fee structure in paragraphs-147 to 163. The principles set out in paragraphs- 154, 155, 156 and 162 are relevant for our present

purpose, which require extraction and reads as under:

154. The fee structure, thus, in relation to each and every college must be determined separately keeping in view several factors, including

facilities available, infrastructure made available, the age of the institution, investment made, future plan for expansion and betterment of the

educational standard etc. The case of each institution in this behalf is required to be considered by an appropriate Committee. For the said

purpose, even the books of accounts maintained by the institution may have to be looked into. Whatever is determined by the Committee by way

of a fee structure having regard to relevant factors, some of which are enumerated hereinbefore, the management of the institution would not be

entitled to charge anything more.

155. While determining the fee structure, safeguard has to be provided for so that professional institutions do not become auction houses for the

purpose of selling seats. Having regard to the statement of law laid down in paragraph 56 of the judgment, it would have been better, if sufficient

guidelines could have been provided for. Such a task which is a difficult one has to be left to the Committee. While fixing the fee structure the

Committee shall also take into consideration, inter alia, the salary or remuneration paid to the members of the faculty and other staff, the investment

made by them, the infrastructure provided and plan for future development of the institution as also expansion of the educational institution. Future

planning or improvement of facilities may be provided for. An institution may want to invest in an expensive device (for medical colleges) or a

powerful computer (for technical college). These factors are also required to be taken care of. The State must evolve a detailed procedure for

constitution and smooth functioning of the Committee.

156. While this Court has not laid down any fixed guidelines as regards fee structure, in my opinion, reasonable surplus should ordinarily vary from

6% to 15%, as such surplus would be utilized for expansion of the system and development of education.

162. However, there cannot be any doubt that before any such order is passed, the institutions concerned shall be entitled to an opportunity of

being heard. For the aforementioned purpose, the State shall set up a machinery to detect cases where amounts in excess of the permitted limit are

collected as it is the general experience that students pay a huge amount.

20. After the Constitution Bench decision in Islamic Academy of Education-1 case, the issue came to be again dealt with by a seven Judges Bench

of the Hon"ble Supreme court in P.A. Inamdar case, where the Supreme Court, while tracing the earlier decisions in T.M.A. Pai Foundation and

Islamic Academy of Education-I, dealt with the issue relating to the fee regulation in paragraphs-139 to 155. In paragraph-144, the Hon"ble

Supreme Court made it clear that the Committees set up for monitoring admission procedure and determining fee structure in the judgment of

Islamic Academy of Education-I was permissible as regulatory measures aimed at protecting the interest of the student community as a whole as

also the minorities themselves in maintaining required standards of professional education on non-exploitative terms in their institutions. The

Supreme Court also made it clear in paragraph-145 that unless the admission procedure and fixation of fees is regulated and controlled at the initial

stage, the evil of unfair practice of granting admission on available seats guided by the paying capacity of the candidates would be impossible to

curb. In paragraph-148, the Hon"ble Supreme Court made it further clear that the constitution of the committees is only a stopgap or ad hoc

arrangement made in exercise of the power conferred on the Supreme Court under Article 142 of the Constitution until a suitable legislation or

regulation framed by the State steps in. In paragraph-149, the Hon"ble Supreme Court, while sounding a note of caution, pointed out that the fee

structure approved by some of the Committees was abysmally low which rendered the functioning of the institutions almost impossible or made the

institutions run into losses. They also noted that all the competent and talented faculties left their jobs, as the salary was not commensurate to their

academic talent. The Supreme Court therefore stated that the Committees, so long as they remain functional, should be more sensitive and act

rationally and reasonably with due regard for realities and that they should refrain from generalising fee structures and wherever needed, they

should go into the accounts, schemes, plans and budgets of individual institutions for the purpose of finding out what would be an ideal and

reasonable fee structure for that institution. Ultimately, in paragraph-155, the Hon"ble Supreme Court reiterated that the existence of the

Committees for admission and fee structure is only a temporary measure and an inevitable passing phase until the Central Government or the State

Governments are able to devise a suitable mechanism and appoint a competent authority in consonance with the observations made in the

judgment. The Supreme Court also made it clear that any decisions taken by such Committees and by the Central or State Governments are open

to judicial review in accordance with the settled parameters for the exercise of such jurisdiction.

21. On a close reading of the above decisions, namely, TMA Pai Foundation, Islamic Academy of Education-I and P.A.Inamdar cases, the

following broad principles emerge:

(a) The decision in Unnikrishnan case insofar as it framed the scheme relating to the grant of admission and fixation of fee and the consequent

directions are no longer good law. (para-45 of TMA Pai Foundation)

(b) The right to establish and administer unaided private educational institutions, among other rights, comprises the right to set up a reasonable fee

structure. (para-50(b) of TMA Pai Foundation)

(c) In setting up a reasonable fee structure, the element of profiteering cannot be accepted and the fee structure must take into consideration the

need to generate funds to be utilised for the betterment and growth of the educational institutions as well as to provide facilities necessary for the

benefit of the students. (para-54 of TMA Pai Foundation)

(d) The decision on the fee to be charged must necessarily be left to the private educational institution that does not seek or is not depending upon

any funds from the Government. However, as education is regarded as charitable, the institution cannot charge such a fee as is not required for the

purpose of fulfilling that object. In other words, the object should not be to make a profit inasmuch as education is essentially charitable in nature,

though there can be a reasonable revenue surplus which can be generated for the purpose of development of education and expansion of the

institution, (paras 56 & 57 of TMA Pai Foundation)

(e) The fee structure for each institution must be fixed keeping in mind the infrastructure and facilities available, the investments made, salaries paid

to the teachers and staff, future plans for expansion and/or betterment of the institution etc., and there can be no profiteering and capitation fee

cannot be charged. Any surplus/profit that can be generated must be only for the benefit/use of that educational institution and it cannot be diverted

for any other use or purpose or for personal gain or for any other business or enterprise, (para-7 of Islamic Academy of Education-I)

(f) The State Governments/concerned authority should set up in each State a committee headed by a retired High Court Judge nominated by the

Chief Justice of that State and the other members should be nominated by the concerned Judge, which should consist of a Chartered Accountant

of repute, a representative of Medical Council of India or All India Council for Technical Education depending upon the type of institution along

with the Secretary of the State Government in charge of Medical Education or Technical Education, as the case may be, who should act as a

member and Secretary of the Committee. One other member can also be appointed, but the maximum number of members should not exceed five,

(para-7 of Islamic Academy of Education-I)

(g) The institution should place before the Committee well in advance of the academic year its proposed fee structure with all relevant documents

for scrutiny by the Committee. (para-7 of Islamic Academy of Education-I)

(h) The Committee should decide whether the fee proposed by the institution is justified and does not contain an element of profiteering or charging

capitation fee and the Committee will be at liberty to approve the fee structure or to propose some other fee which can be charged by the

institution. (para-7 of Islamic Academy of Education-I)

(i) The fee fixed by the Committee shall be binding for a period of three years at the end of which period, the institution would be at liberty to apply

for revision, (para-7 of Islamic Academy of Education-I)

(j) Once fees are fixed by the Committee, the institution cannot charge either directly or indirectly any other amount over and above the amount

fixed as fees. If any other amount is charged under any other head, namely, donations, the same would amount to charging of capitation fee. (para-

7 of Islamic Academy of Education-I)

(k) An educational institution can only charge the prescribed fees for one semester/year and if an institution feels that any particular student may

leave in the midstream, then at the highest it may require the student to give a bond/bank guarantee, (para-8 of Islamic Academy of Education-I).

(l) The fee structure in relation to each and every college must be determined separately keeping in view the various factors including the facilities

available, infrastructure made available, the age of the institution, investments made, future plan for expansion and betterment of the educational

standard etc. The case of each institution should be considered by the appropriate Committee, for which purpose the books of accounts

maintained by the institution can be looked into and once the fee is fixed by the Committee, the management of the institution would not be entitled

to charge anything more, (para-154 of Islamic Academy of Education-I by S.B.Sinha, J.)

(m) While determining the fee structure, safeguard has to be provided so that the professional institutions do not become auction houses for the

purpose of selling seats and the guidelines to be followed should be left to the Committee concerned, (para-155 of Islamic Academy of Education-

I by S.B.Sinha, J.)

(n) Reasonable surplus should ordinarily vary from 6% to 15%. Such surplus can be utilised for expansion of the system and development of

education, (para-156 of Islamic Academy of Education-I by S.B.Sinha, J.)

(o) Before any order is passed by the Committee, an opportunity of being heard should be extended to the concerned institution. (para-162 of

Islamic Academy of Education-I by S.B.Sinha, J.)

(p) The profession has to be distinguished from ""business"" or a mere ""occupation"". While in business, and to a certain extent in occupation, there is

a profit motive, the profession is primarily a service to the society wherein earning is secondary or incidental. A student who gets a professional

degree by payment of capitation fee, once qualified as a professional, is likely to aim more on earning rather than serving and that becomes a bane

to society, (para-140 of P.A.Inamdar)

(q) The Court cannot shut its eyes to the hard realities of commercialisation of education and evil practices being adopted by many institutions to

earn large amounts for their private or selfish ends. If capitation fee and

profiteering are to be checked, the method of admission has to be regulated so that the admissions are based on merit and transparency and the students are not exploited. It is permissible to regulate admission and fee structure for achieving the above purpose. Therefore, while every institution is free to devise its own fee structure, the same can be regulated in the interest of preventing profiteering and that no capitation fee is charged, (paras-140 & 141 of P.A.Inamdar)

(r) The two Committees for monitoring admission procedure and determining fee structure in the judgment of Islamic Academy of Education are permissible as regulatory measures aimed at protecting the interest of the student community as a whole as also the minorities themselves in maintaining the required standard of professional education on non-exploitative terms in their institutions. Such regulatory methods do not violate the rights of minorities under Article 30(1) or the right of minorities or non-minorities under Article 19(1)(g), as they are construed as reasonable restrictions, (para-144 of P.A.Inamdar)

(s) Unless the admission procedure and fixation of fees are regulated and controlled at the initial stage, the evil of unfair practice of granting admission on available seats guided by the paying capacity of the candidates would be impossible to curb, (para-145 of P.A.Inamdar)

(t) The constitution of the Committees is a stopgap or ad hoc arrangement made in exercise of the power conferred on the Hon'ble Supreme Court under Article 142 of the Constitution until a suitable legislation or regulation framed by the State steps in. (para-148 of P.A.Inamdar)

(u) The Committees so long as they remain functional, to be more sensitive and to act rationally and reasonably with due regard for realities. They should refrain from generalising the fee structure and where needed, should go into the accounts, schemes, plans and budgets of individual institution for the purpose of finding out what would be an ideal and reasonable fee structure for that institution, (para-149 of P.A.Inamdar)

(v) If any of the Committees in individual cases is found to have exceeded its powers by unduly interfering in the administrative and financial matters of the unaided private professional institutions, the decision of the Committee, being quasi-judicial in nature, would always be subject to judicial review, (para-150 of P.A.Inamdar)

(w) The Central or the State Government, in the absence of a Central legislation, to come out with a detailed well-thought-out legislation on the subject and the judicial wing of the State should act when the other two wings do not act. The Committees regulating admission procedure and fee structure should continue to exist, but only as temporary measure and an inevitable passing phase, until the Central Government or the State Government devise a suitable mechanism and appoint a competent authority, (para-155 of P.A.Inamdar)

22. From the above broad principles set out, the cardinal principles that can be traced are:

- (i) there can be no profiteering or charging of capitation fee;
- (ii) education being charitable proposition, the fixation of fee should be commensurate to achieve the said objective.
- (iii) Any surplus that can be charged should be for the expansion and development of the institution and not for personal gain.
- (iv) The determination of fee structure should be by taking into account the factors like facilities available, infrastructure made, age of the institution, future plan for expansion and betterment of educational standard;
- (v) while determining the fee structure, it should be ensured that professional institutions do not become auction houses for the purpose of selling seats;
- (vi) the Committee should refrain from generalising the fee structure and wherever needed should go into the accounts, schemes, plans and budgets of individual institutions to fix what would be an ideal and reasonable fee for that institution; and
- (vii) if any Committee is found to have exceeded its powers by unduly interfering in the administrative and financial matters of any unaided institution, the decision, being quasi-judicial, would always be subject to judicial review.
- (viii) If any of the Institutions charged any amount over and above the fees fixed by the Committee either as donation or on any other head, the same will amount to charging of capitation fee and the said Institution can be proceeded against for appropriate penal action.

23. The challenge made by the petitioners in these writ petitions will have to be tested on the anvil of the principles set out above. However, before

venturing to examine the case of each of the petitioners, it will have to be stated that in the State of Tamil Nadu, after the 1992 Act and after the

decision in Islamic Academy of Education-I, the Committee came to be constituted as per the decision of the Hon"ble Supreme Court. An

amendment was introduced by way of Act 41 of 2007 to the 1992 Act and by that amendment, after sub-section (2) of Section 4, sub-section (2-

A) came to be inserted, which reads as under:

(2-A) Notwithstanding anything contained in sub-section (1) or sub-section (2), no educational institution imparting education leading to a degree

in medicine or engineering shall receive or collect any fee in excess of the amount fixed by the "Committee on fixation of fee" constituted by the

Government.

Explanation.-For the purpose of this sub-section, "Committee on fixation of fee" means the Committee constituted in pursuance of the direction of

the Supreme Court in Islamic Academy of Education and another Vs. State of Karnataka and others, (2003) 6 SCC 697.

By virtue of the said amendment having been introduced by way of insertion of subsection (2-A) to Section 4, the present Permanent Committee

has virtually become a statutory Committee governed by the 1992 Act. In other words, the Committee which came to be constituted in pursuance

of the decision in Islamic Academy of Education-I has now got a statutory status functioning under the provisions of the 1992 Act. In effect, the

mandate of the Hon"ble Supreme Court in having directed the State Government to replace the Committee constituted in pursuance of its decision

in Islamic Academy of Education case by a statutory authority has now come into existence in the State of Tamil Nadu. Since the amendment has

come into force from 14.11.07 as specified in Act No.41 of 2007, much of the arguments of Mr.N.C.R.Prasad, learned counsel appearing for the

Students Federation of India and Parents Association have been taken care of and we need not dilate much on the arguments made by the learned

counsel.

24. With the above prelude, when we examine the challenge made in each of the writ petitions, in the case of Chettinad Hospitals and Research

Institute, the challenge is to the order of the Permanent Committee dated 4.6.2007. The claim made by the institution was in a sum of

Rs.4,05,000/-. Admittedly, the institution was started only in the year 2006. The order discloses that the Permanent Committee appointed a sub-

committee consisting of the Chief Engineer (Buildings), Public Works Department, Dr.A.Sukumaran, Deputy Director of Medical Education and

Thiru Murali, Architect to make a spot inspection and submit a report to the Permanent Committee. The sub-committee is stated to have visited

the institution and submitted its report on 24.4.2007. The Permanent Committee consists, apart from the Chairman who is a retired Judge of this

Court, the Vice Chancellor of Madras University, one gastroenterologist and an auditor apart from the Secretary to the Government, Health &

Family Welfare Department as its members. Before the Permanent Committee, the institution was represented by its counsel. The Parents

Association as well as the office bearer of Students Federation of India were also represented. Before the Permanent Committee, the infrastructure

facilities of the institution were said to have been visually displayed on behalf of the petitioner institution. A reading of paragraph-3 of the impugned

order discloses that the Permanent Committee was alive to the various principles highlighted in T.M.A.Pai Foundation, Islamic Academy of

Education as well as P.A.Inamdar cases. In paragraph-4 the Permanent Committee dealt with the claim of the petitioner by considering the various

factors projected before it based on the report of the sub-committee. The Permanent Committee was also conscious of the fact that the institution

possesses good infrastructure facilities as well as quality teaching faculty. The Permanent Committee in the course of its discussion referred to a

report dated 18.1.2002 submitted by the Centre for International Development of Harvard University, which made a study for the Government of

Tamil Nadu with regard to Pricing Policy and User Fees in Power, Health and Education Sector in the State. As per the said report, it was stated

that the expenditure per student i.e., cost on medical education worked out to a sum of Rs.2,21,474/- in the year 1997-98. The Permanent

Committee, after taking note of the above factors, concluded that a reasonable escalation was called for inasmuch as the fee was now being

determined for the academic year 2006-2007. The Permanent Committee held that fixing a sum of Rs.3,00,000/- as tuition fee would be fair and

reasonable. That apart, the Permanent Committee also recommended to the institution to allow 15% reduction to the poor students in the fee fixed

by it. Ultimately, in paragraph-7, it determined and fixed the annual tuition fee payable for M.B.B.S. Degree Course for the students admitted in

Chettinad Hospitals and Research Institute in the academic year 2006-2007 and for those students to be admitted thereafter at Rs.3,00,000/-.

Since it was stated that the institution had already collected a fee of Rs.4,00,000/- per student pursuant to the order of this Court, the institution was directed to adjust the excess in the fees payable by the respective students for the future years, apart from recommending to the institution to allow 15% reduction in annual tuition fees to the poor students from the academic year 2006-2007 onwards.

25. When we examine the correctness of the above order on the basis of the challenge made, the submission of Mr.Nageswara Rao and

Mr.Sathish Parasaran, learned counsel appearing for the institution was that the order is vitiated on the grounds of illegality and irrationality. It was

contended that the order does not disclose the consideration of various relevant factors set out by the Hon"ble Supreme Court and that the fee

fixed by it had absolutely no proportion to the investment made by the institution as disclosed in its accounts. The learned senior counsel took pains

to contend that when the entire records including the accounts were placed before the sub-committee and they had the advantage of examining

those records, and the claim of the institution in a sum of Rs.4,00,000/- did not even correspond to the investment made and the recurring

expenditure and the high cost on faculty, the Permanent Committee ought not to have reduced it further by fixing a sum of Rs.3,00,000/-. The

learned senior counsel also contended that the reliance placed upon by the Permanent Committee to an obsolete report of the year 1997 was

totally not germane to the factors relating to the petitioner institution and that therefore the order which smacks of illegality and irrationality in its

conclusion, is liable to be set aside.

26. We did bestow our anxious consideration to the various submissions made on behalf of the petitioner as well as the Students Federation of

India and the Parents Association. When we apply the principles set out in the decision of the Hon"ble Supreme Court to the order impugned

dated 4.6.2007, we find that the Permanent Committee had taken pains to appoint a sub-committee which consisted of the Chief Engineer

(Buildings), Public Works Department, Deputy Director of Medical Education and an architect. Apparently, the report submitted by the said

subcommittee dated 24.4.2007 must have disclosed the infrastructure facilities and the other equipments apart from the faculty position. The sub-

committee consisted of the personnel whose expertise in the respective field cannot be doubted and as a matter of fact, there was no such

allegation against any of those persons. Though it was contended that the petitioner was not furnished with a copy of the report of the sub-

committee dated 24.4.2007, when we examine the correctness of a quasi-judicial order of the Permanent Committee, we are of the view that such

a ground cannot be over emphasised when the Permanent Committee constituted in pursuance of the directions of the Hon''ble Supreme Court

considered the claim of the petitioner in the presence of the petitioner's counsel and other contending parties. It will have to be stated that in the

absence of any serious allegations of mala fide or lack of bona fide or allegation of incompetence, it will be wholly inappropriate to make any

attempt to dissect the order of the Permanent Committee in bits and pieces to find out whether it took care of all the grievances of the petitioner.

27. In our considered opinion, when the order discloses the consideration of the vital relevant factors while determining the fee structure of the

petitioner institution and in the absence of any glaring material irregularity in arriving at such determination, we should refrain from interfering with

the conclusion of the Permanent Committee. To put it differently, when we do not find any serious illegality in the approach of the Permanent

Committee while making the determination, we are unable to hold that the Permanent Committee failed to follow the various guidelines set out by

the Hon''ble Supreme Court in T.M.A.Pai Foundation, Islamic Academy of Education and P.A.Inamdar. On the other hand, it will have to be

remembered that apart from Chairman of the Committee who is none other than a retired Judge of this Court, there was a gastroenterologist and a

representative from a leading private auditor's firm were also members along with the Vice Chancellor of Madras University and the Secretary to

the Government of Health and Family Welfare Department. Therefore, it will have to be held that when such a Committee consisting of experts in

the field of medicine, finance, education and administration had bestowed their personal attention in the fixation of the fee structure of the petitioner

institution, in the absence of any serious allegations of lack of competence in the members of the Committee, it will be wholly unjustified to pick

holes in their conclusions in order to interfere with their orders impugned in these writ petitions.

28. As stated by us earlier, we find that the petitioner as well as the other contending parties were given a personal hearing by the Committee.

Reference to paragraph-3 of the order discloses that the Committee did refer to all the three decisions of the Hon''ble Supreme Court in

T.M.A.Pai Foundation, Islamic Academy of Education and P.A.Inamdar. They have also set out some of the salient features referred to in those

decisions in the said paragraphs. In paragraphs-4 to 6 of the order, the Permanent Committee had considered the contention of the petitioner as

well as some of the features that are available in that institution, both infrastructure wise as well as academic wise. The sub-committee's report and

its recommendation had also been duly considered by the Permanent Committee. Mr.Nageswara Rao, learned senior counsel in his submissions

stated that the Committee's reference to an unconnected report of the year 1997 submitted to the Government while reducing the fee structure

claimed by the petitioner vitiates the impugned order. It is true that the committee did refer to such a report in its order. But we find that the said

factor was sole ground which weighed with the Committee while determining the fee structure. On the other hand the order discloses that the

Committee took into account all the relevant factors relating to the institution and it only made a passing reference to the said report. Therefore, we

hold that the said facts by itself would not vitiate the order of the Committee. Therefore, we do not find any flaw in the conclusion of the Permanent

Committee in its order dated 4.6.2007 for all or any of the reasons urged on behalf of the petitioner. For the very same reasons, we do not find

any good grounds to interfere with the said order at the instance of the Parents Association as urged in W.P. No. 25351 of 2007. Therefore, both

W.P. Nos. 20666 of 2007 and 25351 of 2007 fail and the same are dismissed. For the same reasons, the writ petition filed by Students

Federation of India in W.P. No. 25284 of 2007 insofar as it related to Chettinad Hospitals and Research Institute also fails.

29. In W.P. No. 23268 of 2007, P.S.G.Institute of Medical Sciences and Research seeks to challenge the proceedings of the Permanent

Committee dated 19.3.2007. At the outset, we wish to point out that Mr.N.R.Chandran, learned senior counsel appearing for the impleaded

respondents 3 to 26, in his submissions fairly submitted that those students who have been admitted in the said institution are satisfied with the fee

fixed by the Permanent Committee in its order dated 19.3.2007. The 27th respondent is the Parents Association, who is the petitioner in W.P. No.

26250 of 2007. As far as P.S.G.Institute of Medical Sciences and Research is concerned, Mr.R.Krishnamoorthy, learned senior counsel

appearing for the said petitioner mainly contended that there was a serious violation of principles of natural justice inasmuch as the petitioner was

not even heard by the Permanent Committee nor the sub-committee made any deliberations with the petitioner before submitting its report. In the

impugned order dated 19.3.2007, the Permanent Committee considered the claim of the petitioner for fixing a sum of Rs.4,05,000/- as annual

tuition fee for M.B.B.S.Degree Course. In this case also, a sub-committee was stated to have been appointed to make an inspection and submit its

report. The petitioner institution is stated to have submitted the necessary particulars in pro-forma for the financial year ending with 31.3.2005. The

Permanent Committee has noted the details about the establishment of the institution, its accounts books as well as the report of the sub-committee

and concluded that fixing a sum of Rs.2,25,000/- as tuition fee for the three year period commencing from 2006-07 would be justified.

30. While considering the grievance of the petitioner, especially the submission that the petitioner was not given a reasonable opportunity of being

heard before passing the impugned order, we feel it appropriate to refer to the event that had taken place subsequent to the passing of the

impugned order. In the case of the petitioner institution, namely, P.S.G.Institute of Medical Sciences and Research, subsequent to the passing of

the Impugned order, after the coming into force of the amendment Act 41 of 2007, by which sub-section (2-A) came to be Inserted to Section 4

of the 1992 Act, fresh proceedings came to be initiated by the Permanent Committee for revision of fee for the academic year 2008-09 and for the

two subsequent academic years. In fact while the Impugned order came to be passed by the erstwhile Committee chaired by Mr.Justice A.Raman,

a retired Judge of this Court, the present order dated 10.6.2008 came to be passed by the Committee Chaired by Mr.Justice

N.V.Balasubramanian, retired Judge. Both the Committees consisted of a Chartered Accountant of repute, doctor of eminence in the medical field

apart from the Secretary to the Government, Health and Family Welfare Department. While in the former Committee, the Vice Chancellor of

Madras University was a member, in the present Committee, a representative of Medical Council of India was a member.

31. As far as the violation of principles of natural justice pleaded by the petitioner is concerned, in the order impugned dated 19.3.2007, we do not

find any indication to the effect that the petitioner was heard by the Permanent Committee. Therefore, in the normal course, it would have been in

order for us to set aside the impugned order and direct the Permanent Committee to give a fair opportunity to the petitioner before determining the

fee structure for the period of three years commencing from 2006-07 to 2008-09. However, when it has come to our knowledge that the

Permanent Committee constituted subsequent to December, 2007 had now passed its order dated 10.6.2008, we are of the view that it will be in

order for us to examine whether such a short-cut method is called for in the case on hand. In our considered opinion, having regard to the facts

pleaded before the Permanent Committee which has now passed the order dated 10.6.2008, which has determined the fee structure for the

academic year 2008-09 and two subsequent academic years, no remand is called for. We find from the impugned order dated 19.3.2007, as

against the claim of the petitioner institution for fixing the fee in a sum of Rs.4,05,000/-, the Permanent Committee fixed a fee of Rs.2,25,000/- for

a period of three years from 2006-07 to 2008-09. Whereas in the order dated 10.6.2008, the Permanent Committee considered the claim of the

petitioner institution for fixing a fee of Rs.6,61,550/- for the same M.B.B.S.Degree Course and after a detailed consideration had concluded that

the existing fee of Rs.2,25,000/- should alone be retained apart from permitting the institution to collect a refundable one time caution deposit not

exceeding Rs.5,000/- per student at the time of admission. That apart, the petitioner institution has been directed to cover all the students under the

Students Group Insurance Scheme. The Permanent Committee, however, made it clear in the present order that the fee of Rs.2,25,000/- will not

include hostel, transport, mess charges etc. The Permanent Committee also recommended to the Government to frame a scheme to provide

financial assistance to the poor meritorious students to the extent of 15% of the students admitted in the institution belonging to SC/ST/MBC communities.

32. In order to appreciate the contention of the petitioner, as stated by us earlier, we feel that the course adopted by the Permanent Committee

while passing the order dated 10.6.2008 has to be necessarily taken note of inasmuch as in the opinion of the Permanent Committee, even for the

academic year 2008-09 and for the subsequent two years, the very same fee of Rs.2,25,000/- should hold good and such an order came to be

passed after hearing the petitioner and after a detailed consideration of the various relevant factors highlighted by the Hon"ble Supreme Court in

the three decisions. Therefore, no useful purpose would be served by setting aside the impugned order and directing the Permanent Committee to

carry out the very same exercise for the past period, namely, 2006-07 onwards ending with 2008-09, when the claim of the petitioner itself was in

a sum of Rs.4,05,000/- as against which a sum of Rs.2,25,000/- was determined without any additional liability. Therefore, on a cursory glance of

the present order dated 10.6.2008, we find that a detailed exercise was carried out by the Permanent Committee before arriving at the sum of

Rs.2,25,000/- by way of all inclusive tuition fee, admission fee, special fee etc., to be payable by the students of M.B.B.S.Degree Course for the

year 2008-09 and two subsequent years. We are therefore convinced that in the light of the subsequent proceedings of the Permanent Committee

dated 10.6.2008 in the case of P.S.G.Institute of Medical Sciences and Research, no interference is called for to the impugned order dated

19.3.2007. For the very same reasons, we do not find any justification to entertain the grievance of the petitioners, namely, Students Federation of

India and Parents Association in W.P. Nos. 25284 of 2007 & 26250 of 2007 insofar as P.S.G.Institute of Medical Sciences and Research. In the

result, W.P. No. 23268 of 2007 preferred by P.S.G.Institute of Medical Sciences and Research as well as W.P. No. 26250 of 2007 preferred by

Parents Association as against P.S.G.Institute of Medical Sciences and Research stand dismissed. For the same reasons, the writ petition filed by

Students Federation of India in W.P. No. 25284 of 2007 insofar as it related to P.S.G. Institute of Medical Sciences and Research also fails.

33. In W.P. No. 25704 of 2007, Sri Mookambika Institute of Medical Sciences seeks to challenge the order of the Permanent Committee dated

18.6.2007. Ms.B.Saraswathi, learned counsel appearing for the petitioner made her submissions. In the impugned order dated 18.6.2007, the

Permanent Committee considered the claim of Sri Mookambika Institute of Medical Sciences for fixing the fee at Rs.4,00,000/- and ultimately

fixed the fee at Rs.2,30,000/- for the academic year 2006-07 onwards. The Permanent Committee gave an opportunity to the Chairman of the

institution to appear before it with all the relevant materials. The personal hearing was fixed on 7.5.2007 and the institution was represented by its

Chairman along with its counsel. Here again, there was a video display showing the infrastructure facilities of the institution. A perusal of the

impugned order discloses that like that of the Chettinad Hospitals and Research Institute, here again the Permanent Committee took note of the

guidelines indicated in the three decisions of the Hon"ble Supreme Court and also the report of the sub-committee appointed by it. Significantly, in

the case of Sri Mookambika Institute of Medical Sciences, though the Permanent Committee gave sufficient time for them to produce the

accounts, the same were not furnished on the ground that the accounts have been seized by the Income Tax Department. The Permanent

Committee, however, noted that the infrastructure facilities provided in the institution were sufficient and that there was no adverse report about the

nature and quality of teaching faculty. The Permanent Committee was also alive to the fact that the institution was located at Kulasekharam in

Kanyakumari District and therefore it was intended to serve and attract rural students. Ultimately the Committee held that the petitioner institution

itself being run by a charitable trust, it cannot be expected to levy a very high fee and on that ground the Permanent Committee held that the

fixation of fee of Rs.2,30,000/- for the M.B.B.S.Degree Course in respect of the batch of students admitted during the academic year 2006-07

and to be admitted thereafter would meet the ends of justice.

34. In the case of Sri Mookambika Institute of Medical Sciences and Research also, like that of the P.S.G.Institute of Medical Sciences and

Research, the Permanent Committee constituted after the Act 41 of 2007, considered the claim made by it for the academic year 2008-09 and the

two subsequent years. As in the case of P.S.G.Institute of Medical Sciences and Research, in the case of Sri Mookambika Institute of Medical

Sciences also, as against the claim of Rs.4,61,575/-, the Permanent Committee in the present order dated 10.6.2008 arrived at a figure of

Rs.2,30,000/- as fees that can be charged for the academic year 2008-09 and the two subsequent years. All the reasons which applied to the case

of P.S.G.Institute of Medical Sciences and Research mutatis mutandis apply to the case of Sri Mookambika Institute of Medical Sciences. Here

also, detailed consideration was made by the Permanent Committee before arriving at the fee of Rs.2,30,000/- for the academic year 2008-09

onwards. In such circumstances, applying the very same reasoning as in the case of P.S.G.Institute of Medical Sciences and Research, as well as,

for the reasons that the present impugned order dated 18.6.2007, does not suffer from any material illegality or irregularity, we are convinced that

no interference is called for with the said impugned order. We, therefore, do not find any scope to grant any relief to the petitioner in W.P. No.

25704 of 2007 namely, Sri Mookambika Institute of Medical Sciences. Accordingly, W.P. No. 25704 of 2007 stands dismissed. For the same

reasons, the writ petition filed by Students Federation of India in W.P. No. 25284 of 2007 insofar as it related to Sri Mookambika Institute of

Medical Sciences also fails. In the result, W.P. Nos. 20666, 23268, 25284, 25351, 25704 and 26250 of 2007 stand dismissed. Consequently, all

the connected miscellaneous petitions stand closed. No order as to costs.