

(2013) 04 DEL CK 0013
In the Delhi High Court
Case No : WP (C) No. 1128 of 2010

Mr. Rahul Chadha and Others

APPELLANT

Vs

Summer Field School and Others

RESPONDENT

Date of Decision : 10-04-2013

Acts Referred:

Citation : (2013) 04 DEL CK 0013

Hon'ble Judges : Valmiki J Mehta, J

Bench : Single Bench

Advocate : Ashok Aggarwal, for the Appellant; P.D. Gupta, Advocate for Respondent Nos. 1 and 2, for the Respondent

Judgement

Valmiki J Mehta, J.—This writ petition is filed by petitioners whose wards are studying in respondent No. 1-school. The only issue requiring decision in this case is as to whether a private recognized unaided school is entitled to ask fees for more than one month together i.e. can a private recognized unaided school charge fees in advance for more than one month at one point of time. It is undisputed that the respondent No. 1-school is governed by the Delhi School Education Act, 1973 and the Rules framed thereunder. The aspect of fees to be paid by the students is the subject matter of Chapter XIII Part B of the Delhi School Education Rules, 1973. Two rules in Part B of Chapter XIII, which contains rules from Rules 157 to 170, are relevant and which rules are Rules 165 and 166. These rules read as under:-

Rule 165. Last date for payment of fees and contributions.-All fees and contributions payable to a school by a student shall be payable by the 10th day of the month in which they are due:

Provided that where the school remains closed on the 10th day of the month, such fees or contributions shall be payable on the date following the 10th day on which the school re-opens:

Provided further that where the school remains closed for the long vacation, fees

and contributions shall be payable within ten days from the day on which the school re-opens after the long vacation.

Rule 166. Fine for late payment of fees, etc.-(1) A fine for late payment of the fees or contributions due to a school shall be charged from the student at the rate of five paise for every days, after the 10th, for which the default continues.

(2) The head of the school may, if satisfied that the delay in payment of the fees and contributions was unavoidable, remit the whole or any part the fine referred to in sub-rule (1).

2. A reading of the aforesaid Rule 165 shows that fees have to be paid by a student by the 10th day of the month for which they are due and Rule 166 provides for late payment of fees i.e. after the 10th day of the month and till the default continues. A conjoint reading of these rules show that a school cannot charge fees except for one month at one time and the last date for payment of fees will be 10th day of the month for which the fees will become due.

3. Learned counsel for respondent Nos. 1 and 2 has drawn my attention to the following portion which appears in Dixit's School Manual and which is said to contain an order passed by the Director of Education and which reads as under:-

Duty of collection of Fees/Funds, custody and accounts of stores, etc. entrusted to the ministerial staff.

It has been decided that in future the collection of dues from the students will be made by the ministerial staff posted in the schools as the same are now on quarterly basis.

It is further ordered that the responsibility for the custody and accounts of stores such as furniture, general equipments, fixtures etc. be also entrusted to the ministerial staff of the schools except the Laboratory equipment, Library books and Sports stores equipments etc.

In case of shortage/absence of ministerial staff, the Principal of the school may depute teachers to collect school dues as herein before as he/she deems necessary.

[Dte. Of Edn., Coord. Branch, No. F.30-3(95)-Coord./33021-34021 dated 1.10.1990]

4. On the basis of the aforesaid circular it is contended that the schools are entitled to charge quarterly fees. In my opinion, though the circular on the first blush seems to refer to collection of fees on quarterly basis, however, a reading of the entire circular shows that the portion relied upon is only indication of the fact that there possibly is a practice or may be an earlier circular for collection of fees on quarterly basis. This very circular does not authorize the private unaided schools to take fees on quarterly basis. In any case, the Director of Education has no power to issue circulars which will be in violation of statutory rules. Rules 165 and 166 are statutory in character. Once rules are statutory in character it is

not possible for Director of Education to issue circulars in violation of these rules whereby fees can be allowed to be charged by a school otherwise than every month and which is payable by the 10th day of the month in which the fees become due. In view of the above, the writ petition is allowed. Respondent No. 1-school is directed only to collect monthly fees from the wards of the petitioners and the respondent No. 1-school will accordingly comply with the provisions of Rules 165 and 166 of Delhi School Education Rules, 1973. Writ petition is accordingly allowed, leaving the parties to bear their own costs.