

(2011) 11 AHC CK 0230
In the Allahabad High Court

Case No : Writ Petition No. 8068 (MB) of 2010 Connected With : Writ Petition No. 8069 (MB) of 2010; Writ Petition No. 8072 (MB) of 2010; Writ Petition No. 8077 (MB) of 2010; Writ Petition No. 8076 (MB) of 2010; Writ Petition No. 8074 (MB) of 2010; Writ Petition No.

Sri Sai Mahavidyalaya

APPELLANT

Vs

State of U.P.and others

RESPONDENT

Date of Decision : 29-11-2011

Acts Referred:

Citation : (2011) 11 AHC CK 0230

Hon'ble Judges : Pradeep Kant, J and Ritu Raj Awasthi, J

Final Decision : Disposed Of

Judgement

Ritu Raj Awasthi, J.

This is a bunch of writ petitions filed by private unaided institutions, who are imparting instructions to B.Ed. course for enhancement of the fee as against the one fixed by the State Government. In some cases fee relates to academic session 200708 and in some cases 200809 and 201011, as the academic session 200910 was declared as zero session.

The fee as determined by the State Government was Rs. 30,529/ per academic session, whereas challenge was made to the said determination calling it to be very low and asserting that the fee should be fixed at least to the tune of Rs. 50,000/ per annum. Certain other grievances were raised and challenge to various provisions of the Act was also made regarding competence of the State Government to fix the fee.

Counsel for the parties have produced before us, a government order dated 24.6.2011, by means of which the fee for academic session 201011 has been fixed as Rs. 50,000/ with a provision of 12% increase every year as against the already determined fee to the tune of Rs. 30529/. The aforesaid Government order says that this benefit of enhanced fee would be available only to the

petitioners who have approached the High Court and not to other institutions. The decision so taken has been communicated by the State Government to the Principal Secretary, Samaj Kalyan Department for reimbursement of fee.

Counsel for the petitioners as well as for the Universities, say that the controversy now stands resolved so far the present petitioners are concerned as the government itself has increased the fee to Rs. 50,000/ with an increase of 12% per year and, therefore, the petitions have become infructuous.

Sri Saurabh Lavania appearing for the State, however, submits that the government order aforesaid appears to have been issued in pursuance of the interim direction issued by this Court in various writ petitions and, therefore, it is a fee determined as per the directives issued by this Court, which would be dependant upon the final decision in the writ petitions.

Our attention has been drawn to the interim order dated 4.8.2010 passed in the aforesaid writ petition, namely, Writ Petition No. 7409 (MB) of 2010. This order is dated 4.8.2010 and extends the benefit of the order dated 30.9.08 passed in Writ Petition No. 8949 (MB) of 2008.

The order passed in Writ Petition No. 8949 (MB) of 2008: College of Professional Education and others vs. State of U.P. and others, nowhere authorises the institutions to charge fee of Rs. 50,000/. The said order only notices the contention of the petitioners about their claim of fee as Rs. 50,000/.

The only interim order passed, was that the fee already deposited with the University be paid to the institutions, who are entitled for the same and a further direction was that the district administration will not interfere in the matter.

It, therefore, appears that the State Government of its own considered the plea of the petitioners and enhanced the fee to Rs. 50,000/. In the government order though a mention of the order passed in Writ Petition No. 7409 (MB) of 2010 dated 4.8.2010 has been made but, as already observed, the aforesaid order does not say about fixation of the fee, much less Rs. 50,000/, which has been fixed by the State Government.

Since the State Government has itself determined the fee as Rs. 50,000/ with a provision of 12% increase every year and has confined this benefit only to the institutions who have approached the High Court, we are of the view that no further order need be passed in the present writ petitions.

All other questions raised in the writ petition, are left open.

We are informed that the State Government has fixed the fee accordingly for academic session 201112 also. That being so, the government order, which has been passed independent of any direction of this Court, being acted upon by the State Government, the writ petitions stand disposed of accordingly.

The determination of fee so made, shall continue unless modified by any valid order.

We further direct that whatever amount towards fee has been deposited in the University, which ought to have been given to the institutions, shall be refunded by the University to the institutions concerned forthwith.

We may also clarify that we have not addressed ourselves on the fee for the academic session 200708 and 200809.

All the writ petitions stand disposed of accordingly.