
(2013) 01 MAD CK 0111
In the Madras High Court
Case No : Writ Petition No. 22776 of 2012

Sri Vageesa Vidhyashram

APPELLANT

Vs

The Special Officer, Private School Fee Determination
Committee, The State of Tamil Nadu and The Central Board
of Secondary Education

RESPONDENT

Date of Decision : 03-01-2013

Acts Referred:

Citation : (2013) 01 MAD CK 0111

Hon'ble Judges : R. Banumathi, J;K.K. Sasidharan, J

Bench : Division Bench

Advocate : Raguvaran Gopalan, for the Appellant; P. Sanjay Gandhi for Respondent Nos. 1 and 2, Addl. Govt. Pleader (Edn.) and Mr. G. Nagarajan, for the Respondent

Judgement

R. Banumathi, J.—Writ Petitioner an unaided private school has filed this writ Petition challenging the order passed by the Private School

Fee Determination Committee contending that it is not in conformity with Tamil Nadu Schools (Regulation of Collection of Fee) Act, 2009 (Tamil

Nadu Act 22 of 2009). Writ Petitioner school Sri. Vageesa Vidhyashram was started in the year 2004 and is run by Sri. Vedantha Ramanuja

Seva Trust, a registered Public Charitable Trust, Writ Petitioner school is affiliated to Central Board of Secondary Education (CBSE). In

pursuance to the direction issued by the First Bench in P.B. Prince Gajendra Babu General Secretary, State Platform for Common School System

Vs. Federation of Association of Private Schools in Tamilnadu, The State of Tamilnadu and The Private Schools fee Determination Committee, ,

the Writ Petitioner school submitted its response to the questionnaire along with the fee proposed by them and also the supporting materials. The

hearing date was fixed on 18.03.2011 and the Writ Petitioner school's Board Member appeared and put forth their objections before the

Committee. The Committee headed by Justice K. Raviraja Pandian passed the impugned order dated 27.5.2011 fixing the fee structure for three

academic years i.e. 2010-2011; 2011-2012 and 2012-2013 and according to the Writ Petitioner, the said order was received by the school only

in June 2011.

2. Challenging the said order, writ Petitioner school interalia questioned the applicability of Tamil Nadu Schools (Regulation of Collection of Fee)

Act, 2009 to the school, which is affiliated to CBSE. when the Writ Petition came up for hearing, Writ Petitioner school has filed additional

affidavit stating that the school is not pressing the ground regarding applicability of Tamil Nadu Schools (Regulation of Collection of Fee) Act,

2009 to the Writ Petitioner school, which is affiliated to CBSE. Challenge to the impugned order is now confined that the actual expenditures as

per the audited statement have not been taken into account and the actual salary paid to the teachers together with statutory payments and other

financial commitments had also not been taken into account and that the fee structure fixed by the Committee is very low, leaving huge deficit and

making it difficult to run the school.

3. Mr. Raguvaran Gopalan, learned counsel for Writ Petitioner contended that Committee did not take into account the total expenditure incurred

by the school and that the proposed fee structure is not in commensurate with the actual expenditure incurred by the Writ Petitioner school. It was

contended that the Committee erred in determining the minimum requirement of building to be 11900 sq. ft., whereas the Writ Petitioner school has

a built up area of 31560 sq. ft. Further, the Writ Petitioner has various modern facilities like English Laboratory, Air-conditioned Computer

Laboratory, Maths Laboratory, Multimedia room and purified drinking water facility with R.O. and the Committee has failed to take into account

these facilities. According to Writ Petitioner school, during 2010-2011, Writ Petitioner school has paid the total salary of Rs. 33,00,000/-, but the

Committee has considered only Rs. 32,40,000/-, leaving deficit of Rs. 60,000/-. The Writ Petitioner school has also incurred expenditure in

organising intra-school competitions for students, which the Committee has not

taken into account. Contention of Writ Petitioner is that the number of students on the roll has increased by 20% annually; whereas the Committee has considered only 9% for growth and development.

4. Learned counsel for Writ Petitioner submitted that the teaching staff recruitment as per CBSE norms has also not been taken into account by the Committee. It was also submitted that the action of the Committee directing the Writ Petitioner school to collect lower rate amounts to an

unreasonable restriction and encroachment on the constitutional right of the Writ Petitioner school to establish and run the Institution. Drawing our

attention to the order passed in W.P.Nos. 8489 of 2012 etc. batch (03.05.2012) and M.P. No. 2 of 2012 in 22391 of 2012 (09.11.2012),

learned counsel for Writ Petitioner submitted that the Petitioner is similarly placed school as that of the schools in the above batch of Writ Petitions

and prayed for remitting the matter back to the Committee for consideration of the matter afresh in the light of the guidelines laid down in the order

dated 03.05.2012.

5. We have heard Mr. P. Sanjay Gandhi, learned Additional Government Pleader (Education) for Respondents 1 and 2. Learned Additional

Government Pleader (Education) fairly conceded that the matter be remitted back to the Committee for re-determination of the fee structure in the

light of the guidelines issued in the order dated 03.5.2012. We have also heard the submissions made by Mr. G. Nagarajan, learned counsel

appearing for 3rd Respondent.

6. Earlier, in a batch of Writ Petitions [W.P. No. 8489 of 2012 etc. batch - 2012 Writ Law Reporter : 489 CDJ 2012 MHC 2161], by the

common order dated 03.05.2012 (one of us was a member Justice R. Banumathi), the orders passed by the Committee headed by Justice K.

Ravi raja Pandian were set aside. Written submission was filed by the Government stating that expenses incurred 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. Elaborately referring to the written submissions filed by the learned Advocate General, in the

order dated 03.5.2012, in Paragraphs 88 to 117, we have formulated certain guidelines for determination of fee structure in respect of unaided

non-minority educational institutions.

7. The operative portion of the order in W.P. No. 8489 of 2012 etc. batch (Paragraphs 152 to 154) reads as follows:-

152. For the foregoing reasons, the impugned orders in all the writ petitions are set aside and the matters are remitted back to the School Fee

Determination Committee for consideration of the matters afresh. Fee structure approval form shall be given to Writ Petitioner Schools calling upon

them to produce the details and documents required to be furnished. All the Writ Petitioner Schools shall propose the fee structure afresh with

fresh or additional materials/Audit statements showing the expenditure and income. The Committee shall give personal hearing to each of the Writ

Petitioner Schools and also afford reasonable opportunity to all the Writ Petitioner Schools and pass final orders as expeditiously as possible,

preferably by the end of December 2012.

153. In respect of unaided Non-Minority Educational Institutions, the School Fee Determination Committee shall keep in view the guidelines in

Para Nos. 88 to 117 and 152 of this order. For the reasons stated in Para Nos. 109 and 110, all the unaided Non-Minority Educational

institutions shall be entitled to surplus for development i.e., village and Town Panchayats at 10%; Municipalities and District Headquarters at 12=%

and Corporations at 15%.

154. For the reasons stated in Para No. 111, for Infrastructure Grading, there shall be an increase in fee -7=% to 10% depending on the

availability of the infrastructure in the Schools.

8. Considering the submissions made by the learned counsel for Writ Petitioner, the impugned order is set aside and the matter is remitted back to

the Committee for consideration of the matter afresh in the light of the guidelines issued in W.P. No. 8489 of 2012 etc. batch (03.05.2012). In the

result, the impugned order dated 27.05.2011 passed by Committee is set aside and this Writ Petition is disposed of in terms of the earlier order

dated 03.5.2012 in W.P. No. 8489 of 2012 etc. batch (2012 Writ Law Reporter : 489 CDJ 2012 MHC 2161). We request the Committee to

expedite the process and dispose of the matter preferably by 15th March 2013.

It is made clear that till final order is passed by the Committee, the writ Petitioner school shall continue to collect only the fee fixed by the

Committee by its order dated 27.5.2011.

Consequently, connected Miscellaneous Petition is closed. However, there is no order as to costs.