

HIGH COURT, BOMBAY

1228791

Mr. V.S. Masurkar, Government Pleader for the State.

ALONGWITH
ORIGINAL SIDE
WRIT PETITION (LODGING) NO.1185 OF 2009
ALONGWITH
NOTICE OF MOTION NO.342 OF 2009
NOTICE OF MOTION NO.343 OF 2009
AND
NOTICE OF MOTION NO.344 OF 2009

Association of International Schools and
Principals Foundation and another. ... Petitioners

State of Maharashtra and another. ... Respondents

Mr. M. Chagla, Senior Advocate with Mr. Janak Dwarkadas, Senior Advocate
and Mr. Prateek Saksaria i/by M/s. Nankani & Associates for the petitioners.

Mr. D.A. Nalawade, Government Pleader for the State.

Mr. Prateek Saksaria i/by M/s. L.J. Law for the applicant in Notice of Motion
No.344 of 2009.

Mr. Kapil Chinnay, Senior Advocate with Mr. Prateek Saksaria i/by M/s. L.J. Law
for the applicant in Notice of Motion No.343 of 2009..

Mr. Janak Dwarkadas, Senior Advocate with Mr. Prateek Saksaria i/by M/s.
L.J. Law for the applicant in Notice of Motion No.342 of 2009..

ALONGWITH
ORIGINAL SIDE
WRIT PETITION NO.1166 OF 2009

Unaided Schools Forum and others. ... Petitioners
Vs.

State of Maharashtra and another. ... Respondents

Mr. R.A. Dada, Senior Advocate with Mr. F.E. D'Vitre, Senior Advocate and Mr.

Lakshmi

Silpa

"Disclaimer Clause : Authenticated copy is not a Certified Copy"



HIGH COURT, BOMBAY

1228792

Gaurav Joshi v/by M/s. Federal & Rashmikam for the petitioners.
Mr. D.A. Nalawade, Government Pleader for the State.

ALONGWITH
ORIGINAL SIDE
WRIT PETITION NO.1165 OF 2009

Association of Heads of Anglo Indian
Schools in Maharashtra and others. ... Petitioners
Vs.
State of Maharashtra and another. ... Respondents

Mr. E.E. D'Vitre, Senior Advocate with Ms. Ankita Singhania v/by M/s.
Mahimtura & Co. for the petitioners.
Ms. S. Sreedharan, Assistant Government Pleader for the State.

CORAM: SWATANTER KUMAR C.J. &
S.C. DHARMADHIKARI J.
DATE : 8TH JULY 2009

FC:

The Division Bench of this court passed an order on 6th May, 2009 which was entirely founded on the statement made by one Mr. Sanjaykumar, Secretary, Education Department, Government of Maharashtra. Referring to the voluntary statement made by the officer present in court, the Division Bench directed the Education Department of the State of Maharashtra to take appropriate steps to protect the interest of the students and their guardians/parents seeking admission at all levels of education from Nursery to Junior College by prohibiting them from increasing fees as no committee is

Lakshmi

Silpa

"Disclaimer Clause : Authenticated copy is not a Certified Copy"



HIGH COURT, BOMBAY

1228793

constituted by the State and presently, the matter was left to mediation between parents and teachers association and institutions. The resolution came to be issued on 8th May, 2009 and thereafter, on 11th June, 2009 vide which the Government had decided to constitute two different committees, one being the committee consisting of 19 persons from different fields which was to lay down the general norms for fixation of fees and then to constitute another committee which was to determine the fee payable by the respective schools. Both these resolutions have been challenged before us in different writ petitions. The principal argument raised on behalf of the various petitioners is that keeping in view the law enunciated by Supreme Court in T.M.A. Pai Foundation and others v. State of Karnataka and others, (2002) 8 SCC 481 and RA. Inamdar and others v. State of Maharashtra and others, AIR 2005 SC 3226, the State of Maharashtra has no jurisdiction to deal with or control the management of the private unaided and particularly, unaided minority schools moreso in relation to methodology of admission and fixation of fee. We may notice that the principal question of law raised in these writ petitions was not the subject matter of consideration before the Division Bench which passed the order dated 6th May, 2009. Thus, the ambit and scope of the petitions before us is much larger and therefore, deserves consideration in some details.

2. Thus, we direct that all these petitions be admitted and be fixed for

Lakshmi
Bilpa



"Disclaimer Clause : Authenticated copy is not a Certified Copy"

HIGH COURT, BOMBAY

1228795

the committee concerned or subject to the decision of the court.

4. We further direct that this interregnum arrangement shall be without prejudice to the rights and contentions of the parties and all the pleas raised in the writ petitions particularly, the plea aforesaid. It shall also not prevent the Government to act according to law and we further direct that in terms of the order passed by the Division Bench and as intended by the G.Rs. in question if the Government so chooses, it should appoint committees and require them to proceed to determine the respective fees as in our opinion, no prejudice would be caused to the petitioners. The proceedings and fixation of fees in relation to the schools which are otherwise covered by Government Resolution would not be hampered or delayed thereafter. The State or committee has not been prohibited from taking any decision.

5. The learned counsel appearing for the parties brought to our notice different judgments which we do not consider necessary to refer at this stage.

Parties to act on the authenticated copy of this order.

TRUE COPY
Section Officer 18/07/09
High Court, Appellate Side
Bombay

CHIEF JUSTICE

S.C. DHARMADHIKARI, J.

Lakshmi
Silpa



"Disclaimer Clause : Authenticated copy is not a Certified Copy"

HIGH COURT, BOMBAY

1128794

final hearing on 10th August, 2009. All respondents accept notice and waive service. In the meanwhile, reply affidavit on behalf of the State shall be filed within two weeks as prayed. Rejoinder within two weeks thereafter. We make it clear that any party to these petitions who does not adhere to the direction in regard to completion of pleading shall be deprived of reply and rejoinder. Relevant records shall be produced in court.

3. Now, the question that arises for consideration of the court is as to what interim order needs to be passed. We must note that the learned counsel appearing for the State very fairly stated that they would not give effect to that part of the G.R. which prohibits enhancement of fee and charging of increased fee by schools to whom Government Resolution applies or even otherwise, till further decision in this matter. In view of the statement, we need not discuss the merit or otherwise of the contention raised before us by the parties. Suffice it to note that the respondents will abide by their statement as afore-recorded. Still further question that arises before us is, how to protect the interest of the parties and particularly the students who are not before us. In the event they pay amount of fee more than the fee that may ultimately be fixed and if the contention of the petitioners is not accepted by the court, in our view, the ends of justice would be met if the students who join schools as per their own choices, shall be entitled to the adjustment/refund of the fee in excess of the fees determined in all cases by

Lakshmi
Silpa

"Disclaimer Clause : Authenticated copy is not a Certified Copy"



प्रति,

संचालक,
आर्किड स्कूल, बाणेर,
म्हाळुंगे रोड बाणेर पुणे ४११०४५

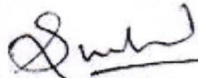
शिक्षण उपसंचालक, पुणे विभाग,
पुणे-१ यांचे कार्यालय,
दिनांक : 15/11/2010

विषय:- सन-२०१०-२०११ या शैक्षणिक वर्षाच्या शैक्षणिक शुल्का
बाबत

सदर्भ—१) आपले पत्र दि.१३/४/२०१०

शासन निर्णय दि.२२/७/१९९९ व दि.४/३/२०१० अन्वये या कार्यालयातील कार्यबळ गट समिती कडून वाढीव शैक्षणिक शुल्काची नियमानुसार मान्यता घेणे आवश्यक आहे. मा.उच्च न्यायालय यांनी दिलेल्या निर्णयानुसार आपण स्वतःत्यातील वादी असल्याने फी वाढीच्या संदर्भात मा.उच्च न्यायालय यांनी असे आदेशा केलेले आहे की, शासनाच्या निर्णयाप्रमाणे कार्यबळ गट समितीमध्ये जो पर्यंत आपल्या फी वाढ प्रस्तावावर निर्णय होत नाही तो पर्यंत, मा.उच्च न्यायालय यांचे आदेशानुसार आपण फी स्वीकारू शकता. परंतु फी वाढीचा प्रस्ताव या कार्यालयास तात्काळ सादर करणे आवश्यक आहे. कार्यालयाच्या कार्यबळ गट समिती कडून जी फी निश्चित केली जाईल त्याप्रमाणे फी घेणे बंधनकारक राहिल, तसेच निश्चित केलेल्या फी पेक्षा जादा फी घेतली असल्यास ती संबधीतांना परत करणे आपणास बंधनकारक राहिल यांची नोंद घ्यावी.

स्थानकारितवर शि. उ. स.
सही आहे


शिक्षण उपसंचालक
पुणे विभाग पुणे-१ करिता

Letter from Dy. Director of Education regarding
Tos fees. Translation version follows.



Outward No./Shivusam/Lekha-3/Puvi/8986
Office of the Shikshan Upasanchalak,
Pune Division, Pune – 1,
Date : 15/4/2010

To,
The Director,
Archid School, Baner,
Mhalunge Road Baner Pune 411045

Subject : Regarding the Education Fees of the
year 2010-2011

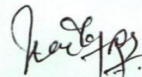
Reference – 1) Your Letter Dt. 13/4/2010

As per the Government Resolution dt. 22/7/1999 & dt. 4/3/2010 it is necessary to secure the permission for increase in education fees from Karyabal Gat Samiti of this office according to rules of education fees. According to the order of the Hon'ble High Court yourself being the Plaintiff the Hon'ble High Court has ordered that, you are entitled to accept the fees until and unless the decision on increase in fees by the Karyabal Gat Samiti according to the rules of the Government. But it is necessary to send your proposal for increase in fees to this office. It is binding on you to accept the fees as decided by the Office Karyabal Gat Samiti, note that it shall be binding on you to refund the excess fees to the concerned persons if you have taken such excess fees than the fixed fees.



Sd/-
For
Shikshan Upasanchalak,
Pune Division, Pune – 1

Translated by me from
Marathi to English without any
Correction and overwriting


(R.S. Kadkol)

28 NOV 2013

A. M. MANE
ADVOCATE & NOTARY
340/15, KULDEVATA HOUSING SOCIETY
GOKHALE NAGAR, PUNE-16
REGD. NO. 2919

The original copy is in
Marathi. Translated in English
