

HIGH COURT OF JUDICATURE AT ALLAHABAD

Chief Justice's Court
Serial No. 3009

PUBLIC INTEREST LITIGATION (PIL) No. - 576 of 2020

Adarsh Bhushan

.....Petitioner

Through :- Mr. Yanendra Pandey, Mr. Vaibhav Pandey, Mr. Swapnil Kumar, Mr. Ajay Kumar Singh & Mr. Shashwat Anand Advocates

v/s

State of U.P.

.....Respondent

Through :-

Mr. Tej Bhanu Pandey, Advocate for respondent Nos. 1, 2 and 3

Mr. Anurag Khanna, Senior Advocate with Mr. Tejas Singh, Mr. Kartikeya Saran and Mr. Ujjawal Satsangi, Advocates for the Institution

**CORAM : HON'BLE RAJESH BINDAL, CHIEF JUSTICE
HON'BLE J.J. MUNIR, JUDGE**

ORDER

1. This order will dispose of the following bunch of writ petitions :
Writ - C No. 25344 of 2020, 15746 of 2021, WPIL Nos. 595, 949, 1105, 1196 of 2020, 451, 796 of 2021.
2. The aforesaid bunch of petitions were filed during the COVID-19 pandemic, raising an issue regarding demand of school fees and other charges by the schools in which the students were studying in various classes. From time to time, different instructions had been issued by the State to be followed by the schools.
3. The grievance raised by the petitioners is that certain facilities were not provided during the COVID-19 pandemic hence they are not liable to pay for that. The expenses incurred were not commensurate to the physical classes held in schools. Hence, they are not liable to pay the same school fee as used to be paid during Session 2019-20.

4. At the time of hearing, reference was made to a judgment of the Supreme Court in **Indian School, Jodhpur and another v. State of Rajasthan and others (2021) 10 SCC 517** in which the issue regarding charging of fee by the schools during the COVID-19 pandemic for the year 2021 was considered by the Supreme Court. In para No. 139 of the judgment, it has been observed that instead of relegating the parties to any regulatory authority to refix the school fee for the academic year 2020-21, to balance the equities and avoid multiplicity of proceedings, as a one-time measure to do complete justice between the parties, direction was issued that for the academic year 2020-21, fee payable by the students shall be 15% less than what was paid for the academic year 2019-20. If any excess had been paid, the same is adjustable in fee to be paid in future.

5. Learned counsel for the parties are agreed that present bunch of writ petitions may be disposed of in terms of directions issued by the Supreme Court in **Indian School's case** (supra). The operative portion thereof is extracted below:

139. Ordinarily, we would have thought it appropriate to relegate the parties before the regulatory authority to refix the school fees for the academic year 2020-21 after taking into account all aspects of the matter including the advantage gained by the school management due to unspent overheads/expenses in respect of facilities not availed by the students. However, that course can be obviated by the arrangement that we propose to direct in terms of this judgment.

141. We are conscious of the fact that we are issuing general uniform direction of deduction of 15% of the annual school fees in lieu of unutilised facilities/activities and not on the basis of actual data schoolwise. As aforesaid, we have chosen to do so with a view to obviate avoidable litigation and to give

finality to the issue of determination and collection of school fees for the academic year 2020-21, as a one-time measure which is the subject-matter of these appeals. We have consciously limited the quantum of deduction from annual school fees to 15% although the school management had mentioned about its willingness to provide 25% scholarship to deserving students, as we have compelled the school management to collect annual school fees for the academic year 2020-21 as was fixed for the academic year 2019-20 on which some of the school management(s) could have legitimately asked for increase of at least 10% in terms of Section 6(5) of the 2016 Act.

6. It is made clear that in case any fee has been paid in excess of what has been determined by the Supreme Court in the aforesaid judgment, in the case of the students still studying, the same may be adjusted in the fee to be paid in future. In case of students who have passed out or left the school, the amount may be calculated and returned to those students. Let the entire exercise be done within two months of date.

7. The writ petitions are disposed of, accordingly.

(J.J. Munir)
Judge

(Rajesh Bindal)
Chief Justice

Allahabad
06.01.2023
Deepak/Ishan

Whether the order is speaking : Yes/No

Whether the order is reportable : Yes/No