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**Tvs Matriculation Higher Secondary School Vs. State of Tamil Nadu, the Secretary to Government, Education Department and Others**

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**SooperKanoon Citation** : sooperkanoon.com/953777

**Court** : Chennai

**Decided On :** Nov-28-2012

**Judge** : The Honourable Mrs. Justice R. Banumathi & K.K. Sasidharan

**Appeal No.** : Writ Petition No.25035 of 2012

**Appellant** : Tvs Matriculation Higher Secondary School

**Respondent** : State of Tamil Nadu, the Secretary to Government, Education Department and Others

**Advocate for Pet/Ap.** : For the Petitioner: AL. Somayajee, Senior Counsel for T.K. Bhaskar, Advocate. For the Respondents: A. Navaneethakrishnan, Advocate General assisted by Sanjay Gandhi, Addl. Govt. Pleader (Edn.).

**Judgement** :

(Writ Petition is filed under Article 226 of Constitution of India praying to issue Writ of Certiorarified Mandamus calling for the records of the 3rd respondent relating to the impugned order dated 19.09.2011 passed by the 3rd respondent and the fee determined in respect of the petitioner school and quash the same and consequentially forbear the respondents from taking any steps towards enforcing or imposing or otherwise issuing directions to the petitioner school in the matter of collection of fees from its students.)

R. BANUMATHI, J.

The Writ Petitioner an unaided Matriculation Higher Secondary School has filed this Writ Petition challenging the order dated 19.09.2011 fixing the fee structure by the School Fee Determination Committee on the ground of arbitrariness and that it is not in conformity with Tamil Nadu Schools (Regulation of Collection of Fee) Act, 2009 [Tamil Nadu Act 22 of 2009].

2. Case of Writ Petitioner School is that the order of the Committee in R.C.No.8/PSFDC/PC/2010 dated 07.05.2010 was handed over to the Writ Petitioner School by the Chief Educational Officer, Madurai and it was noticed that the order fixing the fee found inside the cover was in the name of Lakshmi Higher Secondary School, Veerapanchan Villa, Tindiyur Panchayat, Madurai and the said letter was wrongly delivered to the Writ Petitioner School. According to Writ Petitioner, immediately on 22.05.2010 it returned the order in R.C.No.8/PSFDC/PC/2010 dated 07.05.2010 to the 3rd Respondent along with covering letter dated 22.5.2010, stating that the letter was wrongly delivered to the Writ Petitioner School and requesting the 3rd Respondent to send fee fixation letter to the correct address. The 3rd Respondent in turn refused to receive the Petitioner's letter and directed the Writ Petitioner School to approach the 2nd Respondent. Writ Petitioner School did not receive any response for the said letter. Subsequently, Writ Petitioner sent letter dated 28.05.2010 to the 2nd Respondent requesting them to furnish copy of the order fixing the fee for the Writ Petitioner school. But there was no reply from the 2nd Respondent.

3. According to Writ Petitioner School on 22.10.2010, they found their name in the list of private schools in Tamil Nadu and the fee fixed for those listed schools in Tamil Nadu State Official Website - www.in.gov.in under WHATS NEW Column and the Writ Petitioner School was mentioned under Madurai District (Code No.8) Serial No.416. Immediately, Writ Petitioner School sent their objections for the fee fixed and there was no reply from the Respondents. Writ Petitioner School filed W.P.No.8447 of 2011 seeking direction to the 3rd Respondent to consider the objections filed by the Writ Petitioner School dated 10.11.2010 in accordance with law. After hearing the objections, the Committee has passed the order on

19.09.2011, fixing the fee structure of the Writ Petitioner School which is the subject matter of challenge in this Writ Petition.

4. Mr.AL.Somayajee, learned Senior Counsel for Writ Petitioner School contended that Committee had fixed the fee for transport facilities offered by the Writ Petitioner School to be not more than Rs.1/- per kilo meter and that the total transportation fee collected should not exceed Rs.300/- per student per month. It was contended that the expenditure towards charges of electricity, water, telephone, books and periodicals, repairs and maintenance were not duly considered. Learned Senior Counsel submitted that the audited annual expenditure submitted by the Writ Petition School was also not taken into consideration by the Committee. Learned Senior Counsel would also submit that in respect of all other Schools, the fee structure fixed is for three years from 2010-2011, 2011-2012 and 2012-2013 whereas for the Writ Petitioner School, it has been fixed for the years commencing from the academic year 2011-2012.

5. Learned Senior Counsel submitted that in respect of water charges, electricity charges, communication charges, books and periodicals, maintenance expenses during the year 2009-2010, the School has incurred an expenditure of Rs.69,13,187/-, but the Committee has considered only Rs.15,03,488/-. The learned Senior Counsel relies upon the audited statement of Writ Petitioner school for 2009-2010. Drawing our attention to the observations in Paragraphs 100 to 104 of the earlier order in W.P.No.8489 of 2012 etc. batch, learned Senior Counsel would submit in the light of the observations, expenditure of Rs.69,13,187/- has to be taken into consideration to fix the fee structure. In the light of the observations in the earlier order in W.P.No.8489 of 2012 etc. batch, in our considered view, all the components for determining the school fee are to be reconsidered by the Committee for fixing the fee structure.

6. Insofar as the travelling and conveyance, the Committee has fixed the fee to be not more than Rs.1/- per kilo meter. In the earlier batch of Writ Petitions, the learned Advocate General stated that for travelling and conveyance, the fee shall be considered at Rs.2/- per kilo meter for Van and Bus etc. While so, the Committee has considered only at a lesser rate of Rs.1/- per kilo meter and we are

of the view that the same has to be reconsidered by the Committee in the light of the submissions made by the learned Advocate-General.

7. According to Writ Petitioner school in view of additional skills of learning in the educational field and after thorough study of the teach and learning ability of the teachers and students introduced various educational sports activities and the expenditure incurred by the school under those heads were not considered by the Committee. According to Writ Petitioner school, it has incurred expenditure on Educational sports (Rs.8,26,609); Quality Circles - Problem Solving Skills (Rs.77,461/-); Co-curricular activities (Rs.66,187/-0; E-Learning (Rs.2,80,559/-); Leadership development skills (Rs.10,548/-); Sports Competitions (Rs.1,45,195/-); Battery/Asset tests (Rs.5,03,000/-) and Science talent/Olympiad competitions (Rs.2,25,000/-) and the same were not considered by the Committee.

8. We have heard Mr.A.Navaneethakrishnan, learned Advocate-General, appearing along with Mr.P.Sanjay Gandhi, learned Additional Government Pleader (Education). Learned Advocate General submitted that extra curricular activities to the children in Sports, Games, Arts etc. and more particularly, inclusion of "Edu Sports" as additional skill is incorporated in the continuous and comprehensive evaluation methodology being implemented presently in the State and therefore, Writ Petitioner school cannot charge extra fees under the head "Edu Sports" which is a part of curriculum.

9. We are not proposed to go into the question whether Sports, Games, Arts etc. proposed by the Writ Petitioner school is a part of curriculum and whether the Writ Petitioner school can charge extra fees or not. The issue is left open. Writ Petitioner school as well as the Government are at liberty to make their submissions before the Committee and the Committee shall consider whether the sports activities proposed by the Writ Petitioner school are part of curriculum or not and whether extra fees are to be charged or not.

10. In W.P.No.8489 of 2012 etc., the learned Advocate General has submitted the list of heads which are to be considered towards administration and maintenance. The impugned order was passed on 19.09.2011. In our considered view, the fee structure to be reconsidered in the light of various heads stated by the learned

Advocate General which we have elaborately referred to in Paragraphs 88 to 117 and also the observations in Paragraphs 153 and 154 in W.P.No.8489 of 2012 etc. batch dated 03.05.2012.

11. The operative portion of the order in W.P.No.8489 of 2012 etc. batch in LAKSHMI MATRICULATION SCHOOL VS. STATE OF TAMIL NADU, THE SECRETARY TOGOVERNMENT, EDUCATION DEPARTMENT AND OTHERS, (CDJ 2012 MHC 2161 : 2012 Writ Law Reporter 489) dated 03.5.2012 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."

Considering the grounds raised in the Writ Petition, 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) is applicable to the Writ Petitioner school also and setting aside

the impugned order, the Writ Petition is remitted back to the Committee for consideration of the matter afresh in the light of the guidelines in the said order dated 03.5.2012.

12. In the result, the impugned order dated 19.09.2011 passed by the 3rd Respondent is set aside and this Writ Petition is disposed of in terms of the earlier order dated 03.05.2012 in W.P.No.8489 of 2012 etc. batch, (2012 Writ Law Reporter 489 : CDJ 2012 MHC 2161). We request the third respondent Committee to expedite the process and dispose of the matter as early as possible and preferably by 15th March 2013. The Government is at liberty to file its report/make submission before the Committee in respect of the sports associated with the educational and extra-curricular activities and also co-curricular activities and the Committee shall consider the same.

Consequently, connected Miscellaneous Petition is closed. There shall be no order as to costs.

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