

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16<sup>TH</sup> DAY OF SEPTEMBER, 2021

BEFORE

THE HON' BLE MR.JUSTICE R. DEVDAS

**WRIT PETITION NO.4818/2021 (EDN-RES)**

**C/W**

**WRIT PETITION NOS.3874/2021, 3896/2021,  
3907/2021, 4751/2021, 5704/2021, 8219/2021,  
12952/2021 (EDN-RES)**

**IN W.P. NO.4818/2021**

**BETWEEN**

- 1 . ASSOCIATION OF INDIA SCHOOLS  
AN ASSOCIATION OF PRIVATE  
UNAIDED SCHOOLS  
BEING A SOCIETY INTER ALIA  
REGISTERED UNDER THE SOCIETIES  
REGISTRATION ACT 1880  
HAVING ITS ADDRESS AT  
CST, NO.104-E  
NEAR ASTER SOCIETY, FIRE BRIGADE,  
OPP. OBEROI MALL, DINDOSHI  
MALAD (E)  
MUMBAI - 400 097  
REPRESENTED BY ITS AUTHORIZED  
REPRESENTATIVE MR. VISPI J VESUNA
- 2 . VISPI J VESUNA  
S/O JEHangIR VESUNA  
AGED ABOUT 60 YEARS,  
AUTHORIZED REPRESENTATIVE  
CHAIRMAN OF PETITION NO.1  
HAVING ITS REGISTERED OFFICE

CST NO. 104-E  
NEAR ASTER SOCIETY  
FIRE BRIGADE  
OPP OBEROI MALL  
DINDOSHI MALAD (E)  
MUMBAI - 400 097

...PETITIONERS

(BY SRI M R NAIK, SENIOR COUNSEL FOR  
SRI SANJAY NAIR, ADVOCATE)

AND

- 1 . THE STATE OF KARNATAKA  
THROUGH ITS SECRETARY  
TO GOVERNMENT,  
VIDHAN SOUDHA  
BANGALORE - 560 001
- 2 . COMMISSIONER FOR PUBLIC  
INSTRUCTION  
OFFICE OF CPI  
N T ROAD, BANGALORE - 560 001
- 3 . THE PRINCIPAL SECRETARY  
TO THE GOVERNMENT  
(PRIMARY AND SECONDARY)  
6TH FLOOR, M S BUILDING,  
BANGALORE - 560 001.
- 4 . UNDER SECRETARY TO THE GOVERNMENT  
PRIMARY AND SECONDARY  
EDUCATION (PRIMARY)  
2ND GATE, 6TH FLOOR  
M S BUILDING  
DR AMBEDKAR VEEDHI  
BENGALURU - 01
- 5 . THE DIRECTOR  
PRIMARY EDUCATION DEPARTMENT

OF PUBLIC INSTRUCTIONS  
K R CIRCLE  
BANGALORE - 560 001

...RESPONDENTS

(BY SRI DHYAN CHINNAPPA, AAG A/W  
SMT PRAMODHINI KISHAN, AGA FOR C/R1 TO R5)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO DIRECT RESTRAIN THE RESPONDENTS THEIR RESPECTIVE DEPARTMENTS AGENTS EMPLOYEES OFFICERS ETC FROM ACTING IN FURTHERANCE OF THE IMPUGNED ORDER DTD.29.01.2021 ANENXURE-A ISSUED BY R1 AND FURTHER FROM ISSUING ANY DIRECTIONS OF THE NATURE CONTEMPLATED UNDER THE IMPUGNED ORDER DTD.29.1.2021 ANENXURE-A ISSUED BY R1 AND ETC.

**IN W.P. NO.3874/2021**

**BETWEEN**

ASSOCIATED MANagements OF  
PRIMARY AND SECONDARY SCHOOLS  
IN KARNATAKA (KAMS)  
REGD OFFICE-MSR MAIN ROAD,  
MATHIKERE, BANGALORE-560054  
REPRESENTED BY ITS GENERAL SECRETARY  
SRI D SHASHI KUMAR  
AGED ABOUT 50 YEARS  
S/O SRI DEVAPPA GOWDA

...PETITIONER

(BY SRI G R MOHAN, ADVOCATE)

AND

- 1 . STATE OF KARNATAKA  
BY ITS CHIEF SECRETARY,  
VIDHANASOUDHA,  
BENGALURU-560001
- 2 . STATE OF KARNATAKA  
DEPARTMENT OF PRIMARY AND  
HIGHER SECONDARY EDUCATION,  
M S BUILDING,  
DR AMBEDKAR ROAD,  
BANGALORE-560001  
REPRESENTED BY ITS PRINCIPAL SECRETARY
- 3 . THE COMMISSIONER  
DEPARTMENT OF PUBLIC INSTRUCTIONS,  
K R CIRCLE,  
BANGALORE-560001

...RESPONDENTS

(BY SRI DHYAN CHINNAPPA, AAG A/W  
SMT PRAMODHINI KISHAN, AGA FOR C/R1 TO R3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO DIRECTION TO THE RESPONDENTS TO CONSIDER VARIOUS REPRESENTATIONS MADE TO THEM AND ESPECIALLY DIRECTION IN W.P NO.9855 OF 2020 DATED 14-09-2020 AS PER ANNEXURE G FOR THE ACADEMIC YEAR 2020-21 AND NOT AS PER GOVERNMENT NOTIFICATION BEARING, BENGALURU DATED 29-01-2021 AS PER ANNEXURE J WHICH IS IN VIOLATION OF THE DECISION OF THE SUPREME COURT REPORTED IN AIR 2003 SUPREME COURT PAGE 355 IN THE CASE OF TMA PAI FOUNDATION AND OTHERS VS STATE OF KARNATAKA AND OTHERS AND ETC.

**IN W.P. NO.3896/2021**

**BETWEEN**

- 1 . KARNATAKA UNAIDED SCHOOLS  
MANAGEMENTS' ASSOCIATION  
A REGISTERED SOCIETY  
OFFICE AT NO.427, 1ST CROSS,  
2ND MAIN, VIDYAPEETHA LAYOUT,  
TR NAGAR  
BANGALORE 560028  
REPRESENTED BY ITS SECRETARY  
SRI A MARIYAPPA  
AGED ABOUT 74 YEARS
- 2 . SRI VANI EDUCATION CENTRE TRUST (REGD)  
A REGISTERED TRUST  
HAVING ITS OFFICE AT RAMAVANA  
1246, 4TH MAIN ROAD, E BLOCK,  
2ND STAGE, RAJAJINAGAR,  
BANGALORE-560010  
REPRESENTED HEREIN BY ITS SECRETARY  
MRS R H USHA  
AGED AROUND 55 YEARS
- 3 . MANSI EDUCATIONAL AND CHARITABLE TRUST  
(REGD)  
A REGISTERED TRUST  
HAVING ITS OFFICE AT NO.407  
9TH MAIN, B C C LAYOUT  
CHANDRA LAYOUT, 1ST STAGE  
BANGALORE-560040  
REPRESENTED HEREIN BY ITS TRUSTEE  
V AJAY  
AGED AROUND 30 YEARS

...PETITIONERS

(BY SRI S SUDHARSAN, ADVOCATE)

AND

- 1 . STATE OF KARNATAKA  
REPRESENTED BY PRINCIPAL SECRETARY  
DEPARTMENT OF EDUCATION (PRIMARY  
AND SECONDARY SCHOOL EDUCATION)  
VIDHANA SOUDHA  
BANGALORE 560001
- 2 . COMISSIONER OF PUBLIC INSTRUCTION  
DEPARTMENT OF EDUCATION (PRIMARY  
AND SECONDARY SCHOOL EDUCATION)  
GOVERNMENT OF KARNATAKA  
NRUPATHUNGA ROAD  
BANGALORE 560001
- 3 . DIRECTOR OF PUBLIC INSTRUCTION  
DEPARTMENT OF EDUCATION  
GOVERNMENT OF KARNATAKA  
BANGALORE NORTH DISTRICT  
K G ROAD  
BANGALORE 560002
- 4 . DEPUTY DIRECTOR OF PUBLIC INSTRUCTION  
DEPARTMENT OF EDUCATION  
GOVERNMENT OF KARNATAKA  
BANGALORE NORTH DISTRICT  
K G ROAD  
BANGALORE 560002

...RESPONDENTS

(BY SRI DHYAN CHINNAPPA, AAG A/W  
SMT PRAMODHINI KISHAN, AGA FOR C/R1 TO R4)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226  
OF THE CONSTITUTION OF INDIA PRAYING TO DECLARE  
THAT THE NOTIFICATION ISSUED BY THE GOVERNMENT  
OF KARNATAKA DTD.29.1.2021 ANNEXURE-B AT PAGE  
NO.24 IS ULTRA VIRES THE KARNATAKA EDUCATION ACT

1983 FOR CONTRAVENTION OF SECTION 145 THEREOF  
AND ETC.

**IN W.P. NO.3907/2021**

**BETWEEN**

KARNATAKA STATE MINORITIES EDUCATIONAL  
INSTITUTIONS MANagements FEDERATION (R)  
NO. 126/125, H.K.P ROAD,  
BROADWAY SHIVAJINAGAR  
BANGALORE 560 051  
REPRESENTED BY ITS PRESIDENT  
MR. C.R. MOHAMED IMTIAZ  
AGED ABOUT 68 YEARS  
S/O LATE MR. C. ABDUL RAHIM

...PETITIONER

(BY SRI G R MOHAN, ADVOCATE)

**AND**

- 1 . STATE OF KARNATAKA  
EDUCATION DEPT  
PRIMARY AND SECONDARY EDUCATION  
REPRESENTED BY ITS SECRETARY  
M S BUILDINGS  
BANGALORE 560001
- 2 . THE COMMISSIONER  
DEPARTMENT OF PUBLIC INSTRUCTIONS  
K.R. CIRCLE  
BANGALORE 560001
- 3 . THE DIRECTOR  
PRIMARY EDUCATION  
DEPARTMENT OF PUBLIC INSTRUCTIONS  
K R CIRCLE

BANGALORE 560 001

...RESPONDENTS

(BY SRI DHYAN CHINNAPPA, AAG A/W  
SMT PRAMODHINI KISHAN, AGA FOR R1 TO R3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO DIRECT THE RESPONDENTS THAT NOTIFICATION DTD.24.7.2019 AS PER ANNEXURE-A AND NOTIFICATION DTD.29.1.2021 AS PER ANNEXURE-B CANNOT BE ENFORCED ON MINORITY EDUCATIONAL INSTITUTIONS MEMBERS OF THE ASSOCIATION OF UNAIDED INCLUDING STATE BOARD SYLLABUS ICSE AND CBSE AND OTHER SYLLABUS IS CONCERNED AS THE STATE GOVERNMENT CANNOT INTERFERE IN FIXATION/COLLECTION FEES ETC FROM THE STUDENTS IN THE LIGHT OF THE JUDGEMENT OF THE HONBLE SUPREME COURT AS PER PRAGRAPH 61 REPORTED IN AIR 2003 SUPREME COURT PAGE 355 IN THE CASE OF TMA PAI FOUNDATION AND OTHER VS STATE OF KARNATAKA AND OTHERS AND ETC.

**IN W.P. NO.4751/2021**

BETWEEN

KARNATAKA REGIONAL COMMISSION  
FOR EDUCATION BANGALORE (REGD)  
HAVING ITS OFFICE AT  
2ND CROSS, DA COSTA LAYOUT,  
ST THOMAS TOWN, BANGALORE 560084,  
REPRESENTED BY FR. EUGENE LOBO  
S/O LATE IGNATIUS LOBO  
AGED ABOUT 72 YEARS,  
R/A 2ND CROSS,  
DA -COSTA LAYOUT,  
ST THOMAS TOWN,



BANGALORE 560084

...PETITIONER

(BY SRI DILRAJ JUDE ROHIT SEQUEIRA, ADVOCATE)

AND

- 1 . THE STATE OF KARNATAKA  
REPRESENTED BY THE PRINCIPAL SECRETARY  
DEPARTMENT OF EDUCATION  
(PRIMARY AND SECONDARY SCHOOL EDUCATION)  
VIDHANA SOUDHA  
BANGALORE 560001
- 2 . THE COMMISSIONER OF PUBLIC INSTRUCTIONS  
DEPARTMENT OF EDUCATION  
(PRIMARY AND SECONDARY SCHOOL EDUCATION)  
NRUPATHUNGA ROAD,  
BANGALORE 560001
- 3 . THE DIRECTOR OF PUBLIC INSTRUCTIONS  
DEPARTMENT OF EDUCATION,  
GOVERNMENT OF KARNATAKA,  
BANGALORE NORTH DISTRICT  
K G ROAD, BANGALORE 560002
- 4 . DIRECTOR OF PUBLIC INSTRUCTIONS  
DEPARTMENT OF EDUCATION,  
GOVERNMENT OF KARNATAKA,  
BANGALORE NORTH DISTRICT  
K G ROAD, BANGALORE 560002

...RESPONDENTS

(BY SRI DHYAN CHINNAPPA, AAG A/W  
SMT PRAMODHINI KISHAN, AGA FOR R1 TO R4)

THIS WRIT PETITION IS FILED UNDER ARTICLES  
226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO  
DECLARE THAT THE DIRECTION ISSUED BY THE

GOVERNMENT OF KARNATAKA BEARING NOTIFICATION DTD.29.1.2021 PRODUCED AT ANNEXURE-A IS ULTRA VIRES AND IS CONTRARY TO THE KARNATAKA EDUCATION ACT 1983 FOR CONTRAVENTION OF SECTION 145 THEREOF AND ETC.

**IN W.P. NO.5704/2021**

BETWEEN

VIDYANIKETAN PUBLIC SCHOOL  
A UNITY OF VIDYANIKETAN EDUCATIONAL  
AND CULTURAL TRUST  
ULLAL SATELLITE TOWN  
KENGRI, BENGALURU - 560060  
REP BY ITS DIRECTOR  
SRI VIJAI KRISHNA RAJAGOPAL  
AGED ABOUT 41 YEARS  
S/O S RAJAGOPAL

...PETITIONER

(BY SRI ABHINAV RAMANAND A, ADVOCATE)

AND

- 1 . THE STATE OF KARNATAKA  
DEPT OF PRIMARY AND SECONDARY EDUCATION  
M S BUILDING  
BENGALURU - 560001  
REP BY ITS PRINCIPAL SECRETARY
- 2 . THE COMMISSIONER  
DEPT OF PUBLIC INSTRUCTION  
NRUPATHUNGA ROAD  
BENGALURU - 560001
- 3 . THE DEPUTY COMMISSIONER  
BENGALURU URBAN DISTRICT AND CHAIRMAN

DISTRICT EDUCATION REGULATORY AUTHORITY  
(DERA) KANDAYA BHAVANA  
K G ROAD  
BENGALURU - 560009

- 4 . THE DEPUTY DIRECTOR OF  
PUBLIC INSTRUCTIONS  
BENGALURU SOUTH DISTRICT  
CHAMARAJPET  
BENGALURU - 560018

...RESPONDENTS

(BY SRI DHYAN CHINNAPPA, AAG A/W  
SMT PRAMODHINI KISHAN, AGA FOR C/R)

THIS WRIT PETITION IS FILED UNDER ARTICLES  
226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO  
QUASH THE NOTIFICATION DATED 29.01.2021 ISSUED BY  
THE R-1 AT ANNEXURE-B TO THE WRIT PETITION AND  
ETC.

**IN W.P. NO.8219/2021**

**BETWEEN**

- 1 . HEAD START EDUCATIONAL TRUST  
32(P), 16TH MAIN, 4TH BLOCK  
KORAMANGALA  
BANGALORE-560034  
REPRESENTED BY ITS MANAGING TRUSTEE  
RIAD MAHMOOD
- 2 . THE EDUCATIONAL SOCIETY OF SISTER OF  
ST.JOSEPH COLONY  
PREETHI SADAN,  
CLUNY PROVINCIALATE  
(REG S. NO.198/76-77)  
KANNUR, P. O.  
BAGALUR VIA BANGALORE-562149

REPRESENTED BY ITS PRESIDENT  
SISTER ANNIS

- 3 . BETHANY EDUCATION BOARD  
NO.606B, 8TH BLOCK  
20TH MAIN, KORAMANGALA  
BENGALURU-560095  
REPRESENTED BY ITS SECRETARY  
DR AKASH DAVID RYALL
- 4 . THE EASTWOOD SCHOOL SOCIETY  
NO.2, CAMBRIDGE LAYOUT EXTENSION  
III MAIN, SOMESWARAPURA  
BANGALORE-560008  
REPRESENTED BY ITS SECRETARY  
M EASTWOOD
- 5 . BALDWIN METHODIST EDUCATIONAL SOCIETY  
NO.13, BMEC CONVENT ROAD  
MUSEUM ROAD, POST OFFICE  
BENGALURU-560025  
REPRESENTED BY DR JOSHUA SAMUEL
- 6 . RANG FOUNDATION  
REGISTERED ADDRESS-  
NO.10, IST CROSS  
GUPTA LAYOUT, SOUTH END ROAD  
BASAVANAGUDI  
BANGALORE-560004  
REPRESENTED BY ITS CHAIRMAN  
SHRAVAN GUPTA

...PETITIONERS

(BY SRI PRADEEP NAYAK, ADVOCATE)

AND

- 1 . STATE OF KARNATAKA  
THROUGH ITS CHIEF SECRETARY  
VIDHANA SOUDHA

AMBEDKAR VEEDHI  
BENGALURU-560001

2 . DEPARTMENT OF PRIMARY AND  
SECONDARY EDUCATION  
GOVT OF KARNATAKA  
THROUGH ITS PRINCIPAL SECRETARY  
VIKASA SOUHDA  
BENGALURU-560001

3 . THE COMMISSIONER  
DEPARTMENT OF  
PUBLIC INSTRUCTION  
NRUPATHUNGA ROAD  
BENGALURU-560001

...RESPONDENTS

( BY SRI DHYAN CHINNAPPA, AAG A/W  
SMT PRAMODHINI KISHAN, AGA )

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO DECLARE SECTION 1 (3) (iia) OF THE KARNATAKA EDUCATION ACT, 1983 (AS AMENDED BY SECTION 2 OF THE KARNATAKA EDUCATION (SECOND AMENDMENT) ACT, 2017, PRODUCED AT ANNEX-A, IN SO FAR AS IT MAKES SECTIONS 48 AND 124A OF THE ACT APPLICABLE TO CBSE AND ICSE SCHOOLS, AS BEING VIOLATIVE OF ARTICLE 14 AND 19(1) (g) OF THE CONSTITUTION OF INDIA AND ETC.

**IN W.P. NO.12952/2021**

**BETWEEN**

1 . KARNATAKA PRIVATE SCHOOLS COMMITTEE  
REPRESENTED BY GENERAL SECRETARY  
SRI MOHANKUMAR G

NO 25/1 6TH CROSS  
NHCS LAYOUT, CAUVERY NAGAR  
BANGALORE -560079

- 2 . VIDYASHREE EDUCATION SOCIETY  
ANJANA NAGAR  
MAGADI MAIN ROAD  
BENGALURU – 560091

...PETITIONERS

(BY SRI SRIKANTH M P, ADVOCATE)

AND

- 1 . THE STATE OF KARNATAKA  
BY ITS SECRETARY TO THE GOVERNMENT  
PRIMARY AND SECONDARY EDUCATION  
DEPARTMENT, M S BUILDING  
DR AMBEDKAR VEEDHI  
BENGALURU – 560001
- 2 . COMMISSIONER FOR PUBLIC INSTRUCTIONS  
NEW PUBLIC OFFICES  
NRUPATHUNGA ROAD  
BANGALORE – 560001
- 3 . DIRECTOR OF PUBLIC INSTRUCTIONS  
PRIMARY EDUCATION  
NEW PUBLIC OFFICES  
NRUPATHUNGA ROAD  
BANGALORE – 560001
- 4 . DIRECTOR OF PUBLIC INSTRUCTIONS  
SECONDARY EDUCATION  
NEW PUBLIC OFFICES  
NRUPATHUNGA ROAD  
BANGALORE – 560001

5 . BLOCK EDUCATIONAL OFFICER  
DEPARTMENT OF INSTRUCTIONS  
SOUTH RANGE - 04  
TRIVENI NAGARA,  
KRISHNARAJAPURAM  
BANGALORE - 560036

...RESPONDENTS

(BY SRI DHYAN CHINNAPPA, AAG A/W  
SMT PRAMODHINI KISHAN, AGA FOR R1 TO R5)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE GOVERNMENT ORDER DATED 29.01.2021 ISSUED BY THE R1 IN RESPECT OF MEMBERS OF THE 1ST PETITIONERS SOCIETY VIDE ANNEXURE-Y AND ETC.

THESE WRIT PETITIONS HAVING BEEN HEARD AND RESERVED ON 07.09.2021 AND COMING ON FOR PRONOUNCEMENT OF ORDERS, THIS DAY, THE COURT MADE THE FOLLOWING:

**ORDER**

The petitioners are Private Unaided Schools and Association of such Private Unaided Schools. Their grievance is directed against a Government Order dated 29.01.2021 issued by the respondent-State Government, *inter alia* restraining the educational institutions from

collecting fees for the academic year 2020-2021 in excess of 70% of the tuition fees.

2. The main ground on which the petitioners seek to challenge the impugned Government Order is that the petitioner-Institutions are Private Unaided Schools, imparting education as per the syllabus prescribed by the Central Boards such as CIE, ISCE, CBSE etc. It is contended that these Private Unaided Schools are affiliated to other Boards and not to the State Board. It is therefore contended that the impugned Government Order could not have been issued by the State Government binding the Private Unaided Schools who were not affiliated to the State Board. It is further contended that the issue as to whether the State Governments could have any say in the matter of administration, including admissions and fixing of fees in case of Private Unaided Institutions was considered by the Constitution Bench of the Apex Court in the case of ***T.M.A Pai Foundation & Others Vs. State of Karnataka & Others (1995) 4 SCC 1***, in favour of the



Private Unaided Educational Institutions and more particularly, the minority institutions.

3. However, when it was contended by the learned Senior Counsel Sri Madhusudan R.Naik, on behalf of the petitioners that the issue stands covered by a decision of the Hon'ble Apex Court in the case of ***Indian School, Jodhpur and Another Vs. State of Rajasthan and Others, (2021) SCC OnLine SC 359***, the learned Additional Advocate General Sri Dhyan Chinnappa, would admit that the Hon'ble Apex Court has declared that the State Government could not have issued such a Government Order in the guise of invoking powers conferred under the Disaster Management Act, 2005, or the State Education Act or invoking the executive powers of the State under Article 162 of the Constitution of India. However, the learned Additional Advocate General would submit that the directions given by the Hon'ble Apex Court in the case of ***Indian School, Jodhpur*** (supra) would be binding on the petitioner-Institutions and all educational institutions throughout the country including the State of

Karnataka. The learned Additional Advocate General would therefore, submit that the directions issued by the Hon'ble Apex Court should be followed by the petitioner-Institutions and he would invite directions at the hands of this Court to ensure the directions are complied with. Further more, the learned AAG submits that the petitioner-Institutions should not be permitted to coerce the parents or the wards to pay the school fees on the ground that what was directed by the Apex Court was to give a discount of 15%, while the State Government had directed a discount of 30%.

4. Before proceeding to direct implementation of the directions given by the Hon'ble Apex Court, it is necessary to notice that as an interim measure, this Court had directed the petitioner-Institutions to put up on their notice boards that the parents/wards who were unable to pay the complete school fees, are required to give a representation explaining their difficulties owing to the COVID-19 pandemic and restrictions placed by the State Government on the movement of the citizens as a consequence of

lockdown announced by the State Government. The petitioner-Institutions were directed to consider on case to case basis, such representations and that the Institutions should not coerce the parents/wards for payment of the school fees and that the Online classes should not be disrupted in respect of any of the students on the ground that they have not paid the school fee. The learned Senior Counsels representing the petitioners have submitted that the directions given by this Court have been followed and no student was disallowed to have access to the Online classes on the ground that he/she has not paid the school fees.

5. During the course of these proceedings, several parents and parents' Association have also filed impleading applications in these writ petitions seeking leave of this Court to have their say in the matter. Obviously, the parents and the parents' Association have contended that the Institutions should be directed to hear the difficulties of the parents in the matter of payment of school fee, owing

to the sufferings of the parents on account of COVID-19 pandemic and the lockdowns announced by the Government.

6. Now that the Hon'ble Apex Court considered similar plea raised in the case of **Indian School, Jodhpur** (supra), where similar Government Order issued by the State Government therein and a challenge raised to such Government Order having been considered and after hearing all stake holders including the School Managements, parents/parents' Association, the State Government, etc., the Hon'ble Apex Court concluded that the State Government was not vested with powers either under the State Education Act, the Disaster Management Act or under Article 162 of the Constitution of India. Nevertheless, the Hon'ble Apex Court has taken note of the predicament of not only the parents, but also of the educational institutions in having to pay salaries to the staff and teachers and maintain the infrastructure and has proceeded to pass certain orders. In the considered

opinion of this Court, the directions issued by the Apex Court would be binding on the petitioner-Institutions and all educational institutions in the State of Karnataka also.

7. In the light of the above, this Court proceeds to pass the following:

**ORDER**

- (i) The petitioner-Institution (school Management of the concerned private unaided school) shall collect annual school fees from their students as fixed under the Act of 1995 for the academic year 2019-20, but by providing deduction of 15 per cent on that amount in lieu of unutilised facilities by the students during the relevant period of academic year 2020-21.
- (ii) Regardless of the above, it will be open to the petitioners (concerned schools) to give further concession to their students or to evolve a different pattern for giving concession over and above those noted in clause (i) above.
- (iii) The school Management shall not debar any student from attending either online

classes or physical classes on account of non-payment of fees, arrears/outstanding fees including the installments, referred to above, and shall not withhold the results of the examinations of any student on that account.

- (iv) If any individual request is made by the parent/ward finding it difficult to remit annual fees for the academic year 2020-21 in the above terms, the school Management to consider such representation on case-to-case basis sympathetically.
- (v) The above arrangement will not affect collection of fees for the academic year 2021-22, as is payable by the students of the concerned school as and when it becomes due and payable.
- (vi) The school Management shall not withhold the name of any student/candidate for the ensuing Board examinations for Classes X and XII on the ground of non-payment of fee/arrears for the academic year 2020-21, if any, on obtaining undertaking of the concerned parents/students.

In view of the disposal of these petitions, all pending Interlocutory applications do not survive for consideration and are accordingly disposed of.

**Sd/-  
JUDGE**

JT/-