

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD**DATES AND EVENTS**

IN

CIVIL MISC. WRIT PETITION (P.I.L) NO.OF 2021

(Under Article 226 of the Constitution of India)

District- Moradabad

Anuj Gupta and ORS.

..... **Petitioners****Versus**

State of U.P. and ORS.

..... **Respondents**

S. No.	Dates	Events
1.	--	Ever since the advent of the COVID-19 pandemic and the issuance of the nationwide lockdowns, the students have not been physically appearing in the school. Only with the object to squeeze money from the students and for undue enrichment thereby, the schools' management have adopted the medium of Online Education/Tuition, while unduly charging the complete fees of the pre-Covid era, without there being any guidelines as to the charging of fees for the 'Online Tuition/Classes,' issued by any competent authority.
2.	--	In order to unlawfully extract more and more money from the children and their parents, most of the Private Schools/Institutions have not separately specified the tuition fees and have lumped the fees of all heads into one head,

		<p>i.e., ‘Composite Fees,’ and thus, are collecting the arbitrary and illegal school-fees in mockery of the express directions of the State Government and in blatant violation of the mandate of the 2018 Act, which is not only illegal, arbitrary and unethical, but also inhumane on the part of the Private Schools/Institutions.</p>
3.	--	<p>The Govt. Of Uttar Pradesh has enacted the 2018 Act, which seeks to regulate the conduct of private unaided schools and to put fetters on unreasonable demands of fees by such education institutions. The said Act under Section 8, provides for the constitution District Fee Regulatory Committee, <i>inter alia</i>, to regulate the fees to be charge by private educational institutions and to hear complaints of students/guardians/parents, with regard to the same.</p> <p>To the utter dismay of the petitioners, till date, no such committees have been formed in the State, muchless in Moradabad District, for the redressal of the grievances of the students/parents/guardians.</p>
4.	--	<p>Of late, the Govt. of U.P. has enacted the U.P. Self-Financed Independent Schools (Fee Regulation) (Amendment) Act, 2020 (U.P. Act No. 21 of 2020) (‘2020 Amendment,’ for short) and inserted a new Section 4(3), providing for the powers of the State Government to regulate the fees of the Private Schools/Institutions during Acts of God and Epidemics, such as the COVID-19 pandemic. The Clause (3) of Section 4 of the 2018 Act, as inserted by the 2020</p>

		<p>Amendment, reads as: <i>“Notwithstanding anything contained in this Act, <u>in extraordinary conditions or emergent circumstances like, but not limited to Acts of God, Epidemics, Natural Calamities, Wars or Revolutions, Civil commotions, Floods, etc.; the State Government may by order, regulate the fees to be charged by the recognised schools, from existing students and newly admitted students for each academic year till such time the aforesaid eventualities exist or till such time as seems expedient in public interest to do so.”</u></i></p>
5.	--	<p>It is a matter of great pity, that the State Government has completely abdicated its duties under the 2018 Act and has left the school-children and their parents to the whims and diktats of the Private Schools, who are hell-bent upon unduly enriching themselves by unethical and illegally extorting unwarranted and unreasonable sums of money from the parents. As such, till date, the State Government has not taken any action or steps under the provisions of the 2018 Act, <i>supra</i>, for the succour of the distressed and aggrieved parents and school-children all over the State.</p>
6.	28/07/2020	<p>As of now, owing to the COVID-19 pandemic situation, the Schools/Institutions are imparting solely ‘Online Tuition,’ exclusive of all other extra-curricular activities, such as library, sports, parking, canteen, computer and science labs, etc.. The ‘Online Education/Tuition,’ can only be equated to the giving of ‘Tuition’ and the charging of tuition-fees</p>

		<p>thereon, exclusive of the fees chargeable for the other miscellaneous activities of rendered by the Schools, such as, sports, library, computer lab, science lab, etc., which have all become defunct and redundant because of the COVID-19 pandemic situation.</p> <p>Thus, the charging of any fees, in addition to or over and above the 'Tuition-fees' is arbitrary and hit by Article 14 of the Constitution and hence unconstitutional and void.</p>
7.	--	<p>Further, in online tuition, the teaching staff of the Schools is not required to remain present for the whole day, as they are working from home and that too, for very limited hours. Nothing substantial towards monetary costs has been incurred by the schools' management for running such online classes.</p>
8.	--	<p>However, on the other hand, in addition to the unlawful and unethical fees being sought by the schools, whole of the financial burden of the 'Online Tuition' has to be borne by the parents of the students, including, but not limited to, setting up of the requisite technological infrastructure, such as, buying of expensive smartphone(s), tablet(s) and laptop(s), exorbitant Broadband/Wi-Fi/ Internet/Data-Pack Costs, high electricity bills, etc., all of which heavily add to and multiply the economic crunch, misery and woes of the parents all over the State.</p>
9.	--	<p>Moreover, there is a vast gulf between the financial condition of the Private Schools/Institutions and that of the</p>

		<p>parents, and the same cannot be equated by any stretch of imagination. Both are incomparable and poles apart. The majority of the parents have been rendered jobless and incomeless during the nationwide lockdown period and even thereafter. The business of the public at large has taken a severe hit and their lives are in shambles. Almost all of the citizens have been facing acute financial hardships and are struggling to make ends meet and put food on the table.</p>
10.	--	<p>From the above, it is manifest that the 'Online Tuition/Classes' being much cheaper and a lot less costly to the Schools' Management than the actual education (requiring physical presence) of the pre-COVID-19 era, hence, the fees of 'Online Tuition,' can by no means be equated with or be the same as the older actual / 'physical' education of the pre-COVID-19 era.</p>
11.	--	<p>Therefore, the charging of 'Online Tuition' fees must be substantially much lesser as compared to the actual/physical education (of pre-COVID-19 Era), desirably, lesser by 50% to the 'Tuition-Fees' charged in the pre-COVID-19 era; and the charging of any fees over the said threshold, would be highly unjustified, unwarranted, uncalled for, bad in both law and fact, arbitrary, unconstitutional and void.</p>
12.	--	<p>To the utter dismay of the petitioners, the Private Schools in Moradabad are neither allowing children to attend the Online Classes, as in the case of Petitioner No. 6, nor allowing them to sit in the Examinations or promoting them</p>

		to the higher classes and in several cases, as in the case of the children of Petitioner No. 5, even going to the extent of striking off their names from the school records, thus, expelling them from the School(s). The same is tantamount to destroying the futures of the children and is causing immense panic, trauma, distress, anxiety, depression and hysteria to the parents and the children alike, during these testing times of a devastating pandemic, when the meek parents are struggling to make ends barely meet.
13.	--	The schools are illegally claiming the entire fees or composite fees, over and above the tuition fees for the online tuition/classes, inclusive of all the miscellaneous charges, which services were never used by the children, like for eg. sports fees, library fees, lab fees, maintenance cost, etc., and owing to the closure of the schools during the lockdowns, the same miscellaneous charges were never a burden upon the schools. However, now the schools are claiming the exorbitant and composite fees, in teeth of the 2018 Act, including that of the period when the schools were closed, owing to the nationwide lockdowns. There is hardly any school in Moradabad which is not harassing the parents and children for the fees, even for the several months when the schools were closed.
14.	--	The parents and the children are facing constant threats and harassment via SMS and Whatsapp messages, to pay the unethical fees of the last year, the session of 2020-2021,

		<p>even for the duration the schools were closed and no services were provided, during the nationwide lockdowns.</p> <p>The Private Schools are practically extorting the parents of the students and squeezing them for every dime, that too, for the services they never got during the closure of the schools throughout the country during the lockdowns.</p>
15.	--	<p>The petitioners have made several representations and requests to the respondents 2 and 3, along with sending emails, letters and representations to the Chief Minister's Office and making numerous complaints on the Jan Sunvai Portal for the succour of the grievances of the public at large, but to no avail.</p> <p>Hence, this writ petition.</p>

Dated: [26/03/2021]

[SHASHWAT ANAND] [ANKUR AZAD]

Advocates

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

CIVIL MISC. (INTERIM) APPLICATION NO.OF 2021

(Under Chapter XXII, Rule 1, read with Section 151 of C. P. Code)

ON BEHALF OF

Anuj Gupta and ORS.

..... **Petitioners/Applicants**

IN

CIVIL MISC. WRIT PETITION (PIL) NO. _____ OF 2021

(Under Article 226 of the Constitution of India, 1950)

District: Moradabad

(All, members of **MORADABAD
PARENTS OF ALL SCHOOLS,**
a Citizens' Collective)

..... **Petitioners**

VERSUS

1. STATE OF U.P., through the Additional Chief Secretary, Department of Secondary Education, Govt. of U.P., Secretariat – Lucknow.
2. DISTRICT INSPECTOR OF SCHOOLS, Moradabad, U.P.
3. DISTRICT MAGISTRATE, Moradabad.
4. UTTAR PRADESH (U.P.) BOARD OF EDUCATION, through its Secretary, Regional Office, Bareilly.
5. CENTRAL BOARD OF SECONDARY EDUCATION (CBSE), through its Regional Manager, Dehradun.
6. INDIAN CERTIFICATE OF SECONDARY EDUCATION (ICSE), through its Regional Manager, Noida.
7. CL GUPTA WORLD SCHOOL, Ram Ganga Vihar, Moradabad.
8. DELHI PUBLIC SCHOOL (DPS), Delhi Road, Moradabad.
9. SHIRDI SAI PUBLIC SCHOOL, Agwanpur, Kanth Road, Moradabad.
10. BONNE ANNE PUBLIC SCHOOL, Near Pili Kothi, Civil Lines, Moradabad.
11. ST. MARY'S SCHOOL, Civil Lines, Moradabad.
12. WILSONIA SCHOOL, Civil Lines, Moradabad.
13. S.S. CHILDREN ACADEMY, Civil lines, Moradabad.
14. Kailash Chandra Memorial (KCM) School, Near Company Bagh, Moradabad.
15. GANDHI NAGAR PUBLIC SCHOOL, Gandhi Nagar, Moradabad.
16. SPRING FIELD, Majhola, Delhi Road, Moradabad.
17. PMS, Avas Vikas, Civil lines, Moradabad.

..... **Respondents**

TO,
THE HON'BLE THE CHIEF JUSTICE AND
HIS LORDSHIP'S COMPANION JUSTICES
OF THE HON'BLE COURT, AFORESAID.

THE HUMBLE APPLICATION ON
BEHALF OF THE APPLICANTS,
ABOVE-NAMED,

MOST RESPECTFULLY, RUNS AS UNDER:

1. That, full facts and circumstances in support of this application have been given in the accompanying Writ Petition and the Affidavit filed in support thereof, which deserve to be treated as a part and parcel of this application, and the contents whereof are not being repeated herein for the sake of brevity.

2. That, in the facts and circumstances of the case, it is expedient and necessary in the interests of justice to: Pass an ad interim order directing the State of U.P. and the Private Schools/Institutions –

- i. Not to take any coercive action against the school-children owing to the non-payment of school-fees**, such as, deprivation from online tuition/classes, withholding results and promotion, expulsion/striking the names of children off from the rolls of the school, etc.; AND/OR
- ii. To re-admit the students who have been expelled from the school(s) due to non-payment of school-fees**, including the son of the Petitioner No. 5, Gandhi Nagar Public School, Gandhi Nagar, Moradabad (Respondent No. 16); AND/OR
- iii. To re-admit the students who have been removed from the Whatsapp Group(s) of the School and barred from the online classes due to non-payment of school-fees**, including the daughters of the Petitioner No. 6, being

students of S.S.

Children Academy Girls School, Civil Lines, Moradabad (a branch of Respondent No. 14); AND/OR

- iv. To allow the students to sit in the exams who have been deprived thereof and to furnish results to the ones whose results have been withheld, due to non-payment of school-fees; AND/OR**
- v. To duly promote the children whose promotion has been withheld due to non-payment of school-fees;**

otherwise, the petitioners shall be put to great hardships and irreparable loss; And pass such other and further order(s) in addition to or in substitution for, as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

PRAYER

3. It is therefore, Most Respectfully prayed, that this Hon'ble Court may graciously be pleased to: Pass an ad interim order directing the State of U.P. and the Private Schools/Institutions –

- i. Not to take any coercive action against the school-children owing to the non-payment of school-fees**, such as, deprivation from online tuition/classes, withholding results and promotion, expulsion/striking the names of children off from the rolls of the school, etc.; AND/OR
- ii. To re-admit the students who have been expelled from the school(s) due to non-payment of school-fees**, including the son of the Petitioner No. 5, Gandhi Nagar Public School, Gandhi Nagar, Moradabad (Respondent No. 16); AND/OR
- iii. To re-admit the students who have been removed from the Whatsapp Group(s) of the School and barred from the online**

classes due to non-payment of school-fees, including the daughters of the Petitioner No. 6,

students of S.S.

Children Academy Girls School, Civil Lines, Moradabad (a branch of Respondent No. 14); AND/OR

- iv. To allow the students to sit in the exams who have been deprived thereof and to furnish results to the ones whose results have been withheld, due to non-payment of school-fees; AND/OR**
- v. To duly promote the children whose promotion has been withheld due to non-payment of school-fees;**

otherwise, the petitioners shall be put to great hardships and irreparable loss; And pass such other and further order(s) in addition to or in substitution for, as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

Dated: 26/03/2021

[SHASHWAT ANAND] [ANKUR AZAD]

Advocates