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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

*Date of Decision: 24<sup>th</sup> April, 2020*

+ W.P.(C) 2993/2020

NARESH KUMAR ..... Petitioner  
Through: Dr. N. Pradeep Sharma, Adv.

versus

DIRECTOR OF EDUCATION & ANR. ..... Respondents  
Through: Mr. Ramesh Singh, Standing  
Counsel for GNCTD.

**CORAM:**

**HON'BLE THE CHIEF JUSTICE**

**HON'BLE MR. JUSTICE C. HARI SHANKAR**

**D. N. PATEL, Chief Justice (Oral)**

1. The Court is convened through Video Conferencing.
2. Consequent on the global devastation wrought by the n-COVID-2019 pandemic, to which India is no exception, the executive administration in this country has had to take certain hard-hitting decisions, and to put in place a slew of curbs, restraints, and containments, so as to minimise, to the extent possible, the societal effect of the viral pandemic. Many establishments and offices, save and except those which render essential services, or trade in essential goods and commodities, have had to be shut down, and a near complete lockdown imposed, on a national scale, completely

prohibiting movement of the public in open spaces. This, unfortunately, has resulted in hardship – albeit unavoidable – to various persons engaged in their daily professions and occupations. Alive to these considerations, the executive administration, both at the Centre and in various States, including the Government of National capital Territory of Delhi (GNCTD) have issued orders, instructions and notifications, almost on a daily basis, aimed at mitigating the difficulties faced by the common man.

**3.** The situation, in which we are placed today, is one which the country – and, indeed, the world – has not witnessed earlier and, hopefully, would not have to witness again. It is incumbent, on every member of the populace, to be aware of the forbidding nature of the struggle, between man and microbe, in which each one of us is a participant, willing or unwilling. A joint, cohesive and concerted effort, alone, can result in success in this struggle. This would involve, in its wake, certain sacrifices, which, within the peripheries of the law, each one of us has to make. We cannot afford, in such a situation, to balk at inconveniences.

**4.** With this backdrop, we may turn to the Order, dated 17<sup>th</sup> April, 2020, issued by the Directorate of Education (DoE), GNCTD, forming subject matter of challenge in this writ petition. It is necessary, in view of the nature of the controversy, to reproduce this order, *in extenso*, thus:

**“DIRECTORATE OF EDUCATION  
GOVT. OF NCT OF DELHI  
OFFICE OF THE DIRECTOR OF EDUCATION**

**OLD SECRETARIAT, NEW DELHI – 110054**

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**F. No. PS/DE/2020/54**

**Dated:- 17/04/2020**

**ORDER**

Whereas, the Disaster Management Act, 2005 and the Delhi Epidemic Diseases, COVID-19 Regulations, 2020 under the Epidemic Diseases Act, 1897 for Prevention and Containment of COVID-19 are in force in NCT of Delhi at present. Hence all are required to comply with the provisions of the same.

Whereas, everyone is aware that the outbreak of Novel Corona Virus (COVID-19) has been declared as Pandemic by WHO and at present, it is a major threat to life and, therefore, a grave matter of concern in the country, being social emergency life situation including Delhi. India is under a 21-day Lockdown with effect from March, 24 2020 and people are under strict directions to restrain from going out of their homes.

Whereas, it is also a fact that in view of the spread of COVID-19, all business/professional/other activities (other than essential ones) have ceased to function as a precautionary measure to contain COVID-19 due to which, *some parents, are not in a position to pay the school fee of their wards at increased rates or even at existing rates if demanded on quarterly basis in one go.*

Whereas, in such an unfavourable situation, supply out of compassion for fellow citizens, most of the Charitable Trusts, Charitable Societies, NGOS/Social Organisations and even Individuals are extending their support voluntarily to deal with the war-like situation arisen due to the spread of COVID-19 in their respective fields.

Whereas, in such a situation, when all sections of society are contributing their best to help out those in need, it has been brought to the notice of the undersigned that *some private unaided schools are not only violating the provisions of Delhi School Education Act and Rules 1973 and other guidelines issued by the Department in respect of regulation of fee but also the provisions of above referred Disaster*

*Management Act, 2005 and the Delhi Epidemic Diseases, COVID-19 Regulations, 2020 under the Epidemic Diseases Act, 1897 for prevention and containment of COVID-19 presently in force.*

*Whereas, some schools have increase the fee in the academic session 2020-2021 without taking cognizance of the prevailing situations in view of the announcement of lockdown by the Central Government and despite the enforcement of Disaster Management Act, 2005 and the Delhi Epidemic Diseases, COVID-19 Regulations, 2020 under the Epidemic Diseases Act, 1897 for prevention and containment of COVID-19 and also without compliance of the mandatory provisions of section 17 (3) of Delhi School Education Act 1973 and several other guidelines issued by the Department from time to time in this regard. Some schools have increase the fee without seeking approval of Director (Education) even though they are running on the land allotted by the DDA/Other Land Owning Agencies with such condition.*

*Whereas, it has further come to the notice that some private schools have started charging the fees from the students under various new heads in violation of the directions of Hon'ble Supreme Court as well as the directions of the Directorate of Education.*

*Whereas, it has also been learnt that some private schools have started providing online learning material/classes to the students of their respective schools for the academic session 2020-21 so as to cover the learning/curricular activities of this academic session. This is a welcome step in the interest of students. However, it is matter of grave concern that some schools are found indulging in the following malpractices which are inhuman, especially in view of the outbreak of Corona Virus (COVID-19):-*

- i. Heads of the Schools are not providing the ID & Password to access Online learning/educational material/classes to those students whose parents who have not paid or not agreed to pay the illegal increased fee of the school.

ii. *Heads of the schools are demanding and collecting the fee from the parents/students on quarterly basis.*

iii. *Heads of the schools are not providing ID & Password to the students/parents so as to access the online learning activities/classes who are unable to pay the school fee due to financial crisis on closure of business activities in the ongoing lockdown condition.*

iv. *Some private schools are not paying salary to the teaching and non-teaching staffs in this ongoing lockdown or paying less salary to the extent of 40% to 50% of their total emolument which is against the spirit of direction of Govt of Delhi issued in this regard as well as relevant provisions of DSEA Act, 1973. This has resulted in acute financial difficulties being faced by the teaching and non-teaching staffs working in the Private schools.*

Whereas, attention of all HOSs and managers of the Private Unaided Schools of Delhi is invited to the provisions of DSEAR 1973 in accordance to which they are under the direct control of Charitable Society/Trust. Being Charitable Societies/Trusts, they are supposed to indulge in charity, especially when they are engaged in the noble field of providing education to the society – without indulging in profiteering. Accordingly, they are also supposed to extend their maximum support (to those parents who are in financial distress at this time and unable to pay to school fee) by providing learning material online to all students without any discrimination and hindrance and also by not charging any increased tuition fee or any other fee by creating any new head.

And whereas, attention is also invited towards Rule 165 of DSEAR, 1973 which provides “All fees and contributions payable to a school by a student shall be payable by the 10<sup>th</sup> day of the month in which they are due:

Provided that where the school remains closed on the 10<sup>th</sup> day of the month, such fees or contributions shall be payable on the date following the 10<sup>th</sup> day on which the school reopens:

Provided further that where the school remains closed for the long vacation, fees and contributions shall be payable within 10 days from the day on which the school re-opens after the long vacation”.

And whereas, it is also a fact that due to early closure of schools in the wake of COVID-19 and thereafter due to announcement of lockdown, *the expenditure on co-curricular activities, sports activities, transportation, other development related activities etc* is almost nil.

And whereas, as per the provisions, the tuition fee charged from the students, covers all the expenditure to be incurred *on salary, establishments and curricular activities*.

Now, therefore, under section 39(i) of The Disaster Management Act, 2005, wherein responsibilities have been conferred upon Directorate of Education, being one of the Departments of State Government and in exercise of the powers conferred under Section 17(3) of DSEA, 1973 and read with Rule 43 DSEAR, 1973 and under other enabling provisions of the above Acts and Rules or any other, all Heads/Managers of the private unaided recognised schools of Delhi are hereby directed as under:-

- i. *No fee, except Tuition fee, shall be charged from the parents, till further orders.*
- ii. Heads of the schools shall not demand and collect the Tuition fee from the parents/students on quarterly basis. The fee shall be collected on monthly basis only.
- iii. Not to increase any fee in the academic session 2020-21 till further directions irrespective of the fact whether or not the school is running on the private land or the land allotted by DDA/Other Govt. Land Owning Agencies.
- iv. The schools running on the land allotted by the DDA/Other Land Owning Agencies with the condition to seek approval of Director (Education) before any fee increase, shall collect the Tuition fee on the basis of last fee structure approved by Director (Education)

or as per fee statement filed by them under 17(3) of DSEAR, 1973 during academic session 2015-16.

v. *Shall ensure to provide the access of Online Education/materials/classes to all students, without any discrimination, by providing them ID and Password immediately to get them online education facility.*

vi. Heads of the schools shall, in no case, deny ID & Password to those students/parents for getting online access of educational facilities/classes/materials etc. *to those students who are unable to pay the school fee due to financial crisis arising out of closure of business activities in the ongoing lockdown condition.*

vii. Managing Committee of the schools/Heads of the school shall not put extra financial burden by creating any new head of fee.

viii. Shall neither stop payment of monthly salary nor reduce the existing total emolument to the teaching and non-teaching staff of their schools in the name of non-availability of funds and arrange the funds in case of any shortfalls from the Society/Trust running the school.

Failure to comply with above instructions shall invite action not only under the relevant provisions of DSEAR, 1973 and IPC but also punishment under Section 51(b) of The Disaster Management Act, 2005 which provides that whoever, without reasonable cause:-

“Refuse to comply with any direction given by or on behalf of the Central Government or the State Government or the National Executive Committee or the State Executive Committee or the District Authority under this Act,

Shall on conviction be punishable with imprisonment for a term which may extend to one year or with fine, or with both, and if such obstruction or refusal to comply with directions results in loss of lives or imminent danger thereof,

shall on conviction be punishable with imprisonment for a term which may extend to two years”.

Sd/-  
(BINAY BHUSHAN)  
DIRECTOR OF EDUCATION”  
(*Italics supplied; underscored in original*)

**5.** We may now advert to the prayer clause in this writ petition, which reads thus:

“It is most respectfully prayed that this Hon’ble Court may graciously be pleased to:

- (a) Issue an order or direction to the Respondents to further direct the schools, not to charge the tuition fees from the students keeping in view the present situation of COVID 19 at least for the lockdown period in the interest of justice.
- (b) Set aside/modify the order dated 17.04.2020, passed by the Govt of National Capital Territory of Delhi, bearing F. No. PS/DE/2020/54 to the extent that the tuition fees if any, be charged after an appropriate and reasonable time from the re-opening of the schools and as this Hon’ble Court may deem fit.
- (c) Pass such other or further order(s) as may be deemed fit and proper in the facts and circumstances of the present case.”

**6.** Before proceeding to examine the challenge, in the writ petition, on merits, we wish to draw attention to one disquieting feature. The petitioner is a practising advocate. He does not claim to have any personal interest in this matter. The writ petition does not disclose the name of even a single parent, or student, who is aggrieved by the impugned Order dated 17<sup>th</sup> April, 2020. Strangely, the writ petition does not even claim to espouse the cause of any such parent,

or student. A reading of the writ petition reveals that, on the basis of certain news paper reports, which are referred to the impugned Order, dated 17<sup>th</sup> April, 2020, the petitioner “on great persuasion”, “could manage some of the fee receipts of some private schools”, regarding the tuition fees charged by them. Thereafter, the writ petition proceeds to aver that “in view of the spread of COVID-19, all businesses/professionals/self-employed persons/and others have ceased to earn and are dependent upon their savings *and are not in a position to pay the school fees of their wards even at the existing rates*”. The basis, for the somewhat bold averment, of the petitioner, that no businessman, professional or self-employed person is in a position to pay school fees of her, or his, ward, at the existing rates, is not forthcoming; it appears, *ex facie*, to be the perception of the petitioner, and the petitioner alone. This averment finds place, yet again, in para 5(m) of the writ petition.

7. The writ petition also avers, in para 4 thereof, that “the class persons for whose benefit the petition has been filed and as to such persons are incapable of accessing the Courts themselves”. Again, on the face of it, this averment is incorrect. We reiterate that we do not have, before us, even a single parent, who claims to be aggrieved by the impugned Order. We have serious misgivings, in these circumstances, on the issue of whether the petitioner has any *locus standi*, at all, to maintain the challenge which he purports to espouse, especially in the form of a public interest litigation.

8. Leaving aside, however, for the nonce, the question of the petitioner's locus, we propose to examine the challenge, in the writ petition, on its own merits, so as to obviate yet another challenge, on similar grounds.

9. A reading of the impugned Order, dated 17<sup>th</sup> April, 2020, is revealing. The Order takes clear stock of the emergent situation that has arisen as a result of the COVID-19 pandemic, as well as of the precautionary and restrictive measures imposed, by the Central and State government, to contain its spread, including the imposition of lockdown. The fact that, as a consequence of these measures, all business, professional and other activities, save and except those which may be termed as "essential", have ceased, and that persons have been restrained from leaving their homes, has also been specifically noted. Thereafter, insofar as schools and educational institutions are concerned, the impugned Order refers to the following malpractices, in which certain schools have been found to be indulging:

- (i) increasing the school fee for the 2020-2021 academic session, unmindful of the situation that has arisen as a result of the COVID-19 pandemic and the lockdown imposed consequent thereto, in contravention of the Disaster Management Act, 2005 (hereinafter referred to as "the Disaster Management Act"), the Daily Epidemic Diseases, COVID-19 Regulations, 2020 and Section 17(3) of the Delhi School Education Act, 1973 (hereinafter referred to as "the DSE Act")
- (ii) charging of school fees under new heads,

- (iii) not providing the ID and password, for dissemination of online education, to students whose parents have refused to pay *the illegal increased fee* of the school,
- (iv) collecting fees from parents and students on a quarterly basis,
- (v) not providing the ID and password, to students, *whose parents are unable to pay school fee due to financial crisis on account of closure of business activities, consequent on the lockdown*, and
- (vi) not paying salaries to teaching and non-teaching staff – with which we, in this petition, are not concerned.

**10.** Significantly, the impugned Order, dated 17<sup>th</sup> April, 2020, notes the effort, on the part of certain private schools, to disseminate education online, as a welcome step, aimed at ensuring that students do not suffer, in their curricular activities during the 2020-2021 academic session. We wholeheartedly endorse this sentiment. Judicial notice may be taken, of the painstaking efforts, made by schools and teachers, in providing education, and holding classes, through online platforms. The effort in physically teaching students, in a regular classroom, cannot even remotely be compared with the effort that the teacher has to expend, in providing online education. It is a matter of common knowledge that, in doing so, the effort required to be put in, by the teacher, and the strain to which the teacher subjects herself, or himself, is tremendous, and the efforts of teachers – referred to, often, as the noblest among all noble professions – require to be commended in the highest terms. We unhesitatingly place, on record, our

wholehearted appreciation, of the efforts of teachers, and schools, towards this end.

**11.** Reverting, now, to the impugned Order dated 17<sup>th</sup> April, 2020, the DoE has, after taking stock of the aforesaid malpractices, in which some schools were found to be indulging, issued the directions, enumerated therein and reproduced hereinabove. Of these, the only direction, with which the petitioner claims to be aggrieved, is the first, whereby schools have been interdicted from charging any fee, *except tuition fee*, from parents. The petitioner complains against this exception. The writ petition, therefore, prays that this exception be done away with, and the impugned Order, dated 17<sup>th</sup> April, 2020, be consequently modified, by granting complete exemption from payment of any fee, including tuition fee, at least for the period during which the presently existing lockdown continues to be in place. In the alternative, the writ petition prays that the impugned Order, dated 17<sup>th</sup> April, 2020, be modified to the extent that tuition fees be charged “after an appropriate and reasonable time from the reopening of the schools”.

**12.** Advancing submissions on behalf of the petitioner, Dr. N. Pradeep Sharma, learned Counsel draws our attention, initially, to the various malpractices, allegedly being perpetrated by some schools, to which the impugned Order, dated 17<sup>th</sup> April, 2020, refers. We are not required to enter into this aspect, as the challenge, in the writ petition, is restricted to the permissibility, or schools, to charge tuition fees, during the period of the COVID-19 crisis or the lockdown imposed as

a consequence thereof. The impugned Order, dated 17<sup>th</sup> April, 2020, itself contemplates punitive action against schools indulging in any other misdemeanours, and we expect the DoE to be vigilant and proactive in that regard. Given the limited prayers in the writ petition, we are not required to opine further on this aspect.

**13.** Dr. Sharma has placed reliance on Rule 165 of the Delhi School Education Rules, 1973 (hereinafter referred to as “the DSE Rules”), to support the prayer, in the writ petition, for a direction, to schools, not to charge tuition fees during the period for which the lockdown, presently in place, continues to operate. We are unable to subscribe to the submission. Rule 165 stands reproduced in the impugned Order. Dr. Sharma places reliance on the first proviso to the said Rule, which, in a case in which the school is closed on the 10<sup>th</sup> day of the month (by which date fees are payable), defers the requirement of payment of fees to the date following the 10<sup>th</sup> day on which the school reopens. Schools, being presently closed, Dr. Sharma would seek to rely on this proviso to submit that tuition fees cannot be charged by schools, during the period of such closure. We do not agree. So long as education is being imparted online, and students are availing the benefit thereof, in our opinion, schools cannot be treated as “closed”, so as to disentitle them from charging tuition fees.

**14.** Closely analyzed, it is obvious that, while engrafting the said proviso, the framers thereof never contemplated, even remotely, the imposition of lockdown, such as the present, or, consequent thereupon, the dissemination of education through online platforms.

Interpretation of a statutory instrument, it is trite, has to be informed by the considerations which could, foreseeably, have been in the mind of the framers of the statute, at the time of its framing. It is obvious that the proviso, to Rule 165 of the DSE Rules, when it refers to closure of schools, contemplates a situation in which, owing to physical closure of the school, it is impossible to pay school fees by the due date. *Ex facie*, the first proviso merely defers the stage of payment, of school fees, in such cases, to the appropriate time, when such payment would become possible, and no more.

**15.** Clearly, therefore,, Rule 165 does not deal with the *chargeability* of tuition fees, but only with the *payability* thereof. The prayers, in the writ petition are, on the other hand, concerned, not with the payability of the tuition fees, but with their chargeability. The petitioner seeks that, for the period during which the lockdown is in place, no tuition fees be charged by schools as, in his submission, they are “closed”. We find the submission to be fundamentally misconceived. While there can be no cavil, to the proposition that the requirement of payment of school fees would, necessarily, become enforceable only where the fees are payable, i.e., where the parents are physically in a position to pay the school fees, we cannot agree that, during the period of lockdown, or during the period when online education is being provided by the schools, and availed of, by students, tuition fees should be exempted. So long as schools are disseminating education online, they are certainly entitled to charge tuition fees. Rather, the expenditure involved in disseminating education online may, conceivably, be much greater than that

involved in classroom teaching. Providing e-education is no child's play, and involves the requirement of extensive infrastructural adjustments, including all incidental expenses in arranging access to online platforms, over which education could be provided, and in actually providing such education. To suggest that, having made all these arrangements, schools should not be permitted to charge tuition fees, would be bordering on absurdity.

**16.** We find that the impugned Order, dated 17<sup>th</sup> April, 2020, has correctly analysed the situation, by distinguishing between expenditure incurred by schools "on co-curricular activities, sports activities, transportation, other development -related activities, etc." and expenditure incurred on "salary, establishments and curricular activities". Fees relatable to expenditure incurred on the former category of activities, i.e. co-curricular activities, sports activities, transportation and other development related activities, stand completely exempted by virtue of the impugned Order, dated 17<sup>th</sup> April, 2020, and no school can charge any fees relatable thereto. The impugned Order, however, does not exempt students from the requirement of payment of tuition fees, for the simple reason that tuition fees cover salary, establishments and curricular activities, the expenditure where on continues to be incurred by schools, even during the period of lockdown, and before they are able to resume normal work. Money does not grow on trees, and unaided schools, who received no funds from the Government, are entirely dependent on fees, to defray their daily expenses. We, therefore, find that, in allowing unaided schools to charge tuition fees, whereby expenses

incurred on salary, establishments and curricular activities may be defrayed by them, the impugned Order dated 17<sup>th</sup> April, 2020, strikes a wholesome balance, with which we are ill-inclined to interfere.

**17.** Rule 165 of the DSE Rules, therefore, continues to apply, insofar as actual payment, by the students, or their parents, of tuition fees, is concerned. In other words, fees would be payable only when it is possible to do so. If, for reason of the school being physically closed, it is impossible to pay the fees, we expect all schools to defer the requirement of payment thereof, till such time as it becomes possible for fees to be paid. We are clear in our minds, however, that Rule 165 cannot be pressed into service to seek *exemption, from the requirement of payment of tuition fees*, for the period during which the schools remain physically closed, and are imparting education through online platforms. Students would be mandatorily required to pay tuition fees during this period, and, in so requiring, we do not find the impugned Order, dated 17<sup>th</sup> April, 2020, of the DoE, deserving of interference in any manner.

**18.** Dr. Sharma, thereafter, draws attention to the financial hardship being faced by professionals and businessmen, as well as by persons from the poorer sections of society, during the period of lockdown. Mr. Ramesh Singh, learned Senior Standing Counsel for the DoE correctly draw attention, in this context, to the fact that the impugned Order, dated 17<sup>th</sup> April, 2020, itself prohibits schools from denying ID and password, to students, for obtaining access to online learning platforms, merely because, “owing to financial crisis arising out of

closure of business activities in the ongoing lockdown condition”, the parents of such students are unable to pay school fees. This, again, is a wholesome provision and, once it finds place in the impugned Order dated 17<sup>th</sup> April, 2020, we feel that the apprehension of the petitioner stands effectively allayed. We, however, make it clear that we expect the DoE to, while implementing this provision, ensure that it is not misused, and extend its magnanimity only to persons who are, actually, in a state of financial crisis, owing to the lockdown. It would be necessary for parents, seeking the benefit of this relief, to establish, to the satisfaction of the school, or the DoE, that, owing to the lockdown, they are, in fact, financially incapacitated from paying school fees. If they do so, the impugned Order dated 17<sup>th</sup> April, 2020 expressly mandates schools to provide online education, by making the ID and password, required in that regard, available. In our opinion, this effectively addresses the concerns, expressed by the petitioner, with respect to parents who, owing to the lockdown, find themselves in financial doldrums.

**19.** Dr. Sharma further invited our attention to the guidelines, framed by the Central Government, under the Disaster Management Act, persons affected by disaster, which “shall include –

- (i) the minimum requirements to be provided in relation to shelter, food, drinking water, medical cover, and sanitation;
- (ii) the special provisions to be made for widows and orphans;

(iii) express your assistance on account of loss of life as also assistance on account of damage to houses and for restoration of means of livelihood;

(iv) such other relief as may be necessary.”

Dr. Sharma would seek to submit that, under the residual clause (iv) of the afore-extracted guidelines, “necessary relief”, in the form of exemption from payment of tuition fees, may be directed to be provided. The submission, in our view, is, again, totally misconceived. It is not for this Court to arrive at a policy decision, regarding the relief that is to be provided to persons, affected by any disaster, including the COVID-19 epidemic. No doubt, where, for unconstitutional reasons, any relief, mandatorily required to be provided, is not provided, or where, in providing relief, the executive administration acts in a discriminatory or arbitrary manner, the Court can – and will – interfere. Where, however, relief has been provided, by the executive administration, this Court, in exercise of its jurisdiction under Article 226 of the Constitution of India, would not substitute its own view, and direct providing of further relief, save and except in exceptional situations. In the present case, the impugned Order, dated 17<sup>th</sup> April, 2020, provides for exemption from payment of all fees, except tuition fees, which is relatable to salary, establishment and curricular activities, all of which continue even during the period of lockdown. We are not inclined, therefore, to direct the DoE to grant exemption, to all students, from payment of tuition fees, during the period of lockdown, either by invoking the afore-extracted residual clause (iv) of the Guidelines framed under the

Disaster Management Act, or otherwise. We find, therefore, no substance in this submission, of Dr. Sharma, either.

**20.** Dr. Sharma further sought to submit that unaided schools were, in all cases, run by trusts or societies, and, instead of charging fees from students, schools or, during the period of “COVID lockdown”, to source their expenses from the monies available with their parent trusts, or societies. The submission, in our view, requires merely to be urged, to merit outright rejection. It is not possible for this Court to issue any mandamus, directing unaided schools – who, it is trite, received no financial aid from the executive and are, therefore, dependent on fees for their expenses – to delve into the monies available with their parent trusts, or societies, for defraying the expenses involved in payment of salaries, maintenance of their establishment and imparting of online curricular education. Advisedly, the impugned Order, dated 17<sup>th</sup> April, 2020, too, observes that, by virtue of the amounts available with their parent trusts and societies, unaided schools are also required to extend support to parents who are in financial distress owing to the situation created by the COVID pandemic, and to refrain from charging any “increased tuition fee or any other fee by creating any new other fee by creating any new head”.

**21.** No direction, therefore, in our view, can be issued, to unaided/private schools, not to charge tuition fees during the period of the lockdown, consequent on the COVID pandemic, and to source the funds, for meeting expenses relatable to salaries of their staff,

maintenance of their establishment, and providing of online education, from the monies available with their parent trusts/societies. This submission, of Dr. Sharma, too, therefore, does not commend acceptance.

**22.** The impugned Order, dated 17<sup>th</sup> April, 2020, passed by the DoE, therefore, in our view, strikes the correct balance between the legitimate concerns of the institutions, and of parents/students, even while safeguarding the interests of parents who may find themselves in impecunious circumstances, owing to the lockdown presently in place, or due to closure of their businesses/establishments.

**23.** The writ petition is, therefore, in our view, completely bereft of substance.



**24.** Before parting with this judgement, we may observe that a similar challenge had come up, before the learned Single Judge of this Court, in WP (C) 2977/2020 (*Rajat Vats v. GNCTD*), and was dealt with, in paras 7 and 8 of the judgement of the learned Single Judge, thus:

“7. Insofar as the tuition fee is concerned, the charging of the same would be justified in view of the fact that almost all the schools are conducting online classes and teachers are discharging their functions by imparting course work over online platforms, checking project work online, correcting papers wherein students have already given examinations, preparing questions and lessons taught and supervising students to complete the work given etc. There is also a burden on the schools to pay their staff during these months.

8. The authorities having taken cognisance of the issue and further the matter being one in the policy domain, this Court is not inclined to interfere.”

**25.** We endorse, in its entirety, the above view of the learned Single Judge.

**26.** In view of the above discussion, we see no reason to entertain this writ petition which is, therefore, dismissed, albeit with no orders as to costs.

**CHIEF JUSTICE**

