

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2020

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P Nos.8490, 8491, 8492, 8732, 8733, 8789,8825, 8829,8836,
8840,8841,8850,8951, 9017, 9049, 9052, 9055, 9063, 9066, 9067, 9070,
9071,9073, 9089, 9091, 9092, 9093, 9144, 9148, 9152, 9182,9274, 9295,
9301 and 9331 of 2020

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This Court while passing orders on 17.07.2020 gave the following directions at paragraph No.6 of the order.

6.Taking into consideration, the present situation and in order to find an interim solution to clear the logjam and in order to balance the interest of all the stakeholders, the following directions are issued to the respondents:

[a] This interim order passed by this Court will apply to all unaided private institutions across the State of Tamil Nadu.

[b] The unaided private institutions shall collect 40% of the tuition fees as an advance fees based on

the tuition fees collected during the academic year 2019-2020. This advance fee shall be paid by the students on or before 31.08.2020.

[c] The unaided private institutions shall also collect the arrears of fees payable for the academic year 2019-2020 and this arrears fees shall be paid on or before 30.09.2020.

[d] If any student has already paid the entire fees including arrears, the same shall not be a ground to claim for refund of the fees.

[e] The balance of 35% of the fees based on the tuition fees collected for the academic year 2019-2020, shall be collected within a period of two months from the date on which the institution is reopened and physical classes commences.

[f] The fee Committee shall immediately start the process of the determining the tuition fees for the respective institutions and make an attempt to complete the process within a period of eight months starting from August 2020 onwards.

[g] The payment of balance if any, shall be determined after the final decision of the fee Committee.

[h] The directions given to the fee Committee will not in any way prejudice to the rights of the institutions which have already challenged the jurisdiction of the determination of the fees and which are pending before this Court and the Hon'ble Supreme Court.

[i] The teaching and non teaching staff shall not insist for any increment in salary and/or DA, until the restoration of normalcy and further orders of this Court.

[j] The State Government is directed to immediately take into consideration the request made by the institutions to supply text books and note books to the students either free of cost or at some nominal rates. For this purpose, the State Government can also get the particulars from the respective Schools regarding the students who are in dire straits and it can also be confined to those students. This direction is issued purely in the interest of the students who should not be deprived of education due to their inability to purchase text books and note books. This Court is confident that the State

Government will come up with a positive response in this regard.

[k] The above directions are issued without prejudice to the rights of the petitioners to argue the writ petitions on all the grounds raised by them in their respective writ petitions.

2. This Court as an interim measure directed the unaided private institutions (Schools and Colleges) to collect 40% of the tuition fees as an advance fees based on the tuition fees collected during the academic year 2019-2020. This Court also permitted the institutions to collect the arrears of fees payable for the academic year 2019-2020. Initially, this Court directed the 40% tuition fees to be paid on or before 31.08.2020. This time period was subsequently extended upto 30.09.2020, by an order dated 07.09.2020.

3. The State Government started the process of getting suggestions from the Private School Managements to explore the possibility of reopening the institutions and conducting physical classes. Even though initially the State Government gave some indications that

physical classes will be commenced for students belonging to 9th standard to 12th standard, considering the objections raised from various quarters and the apprehensions raised by the parents, the State Government has decided to keep this decision in abeyance. This Court has to take judicial notice of this fact and in all probabilities, re-opening schools and commencing physical classes may not take place till the end of this year.

4. This Court while issuing directions through its earlier order dated 17.07.2020, dealt with the payment of the balance 35% of the fees at **Clause (e)** and the same is extracted hereunder for proper appreciation.

[e] The balance of 35% of the fees based on the tuition fees collected for the academic year 2019-2020, shall be collected within a period of two months from the date on which the institution is reopened and physical classes commences.

5. This Court expected the situation to improve and thought that the physical classes will commence atleast from November or December 2020. However, the situation has not improved and the reopening of schools and commencing physical classes is not a possibility in the near future. In the meantime, the institutions are imparting education through on-line classes and even examinations have been conducted through on-line mode. It was brought to the notice of this Court that some of the students have not paid even the 40% fees and the arrears fees payable for academic year 2019-2020. However, the institutions are accommodating even such students considering the present situation. It was urged that this Court should consider giving further directions for the payment of the balance 35% of fees, since the institutions will have to meet various expenses such as payment of salary, payment of statutory dues etc., and it will not be possible for the institutions to continue their operations without collecting the balance fees.

6. This Court has carefully considered the submissions made on either side and has taken note of the prevailing situation. If

physical classes cannot be commenced till the end of this year, it will effectively leave only three months of regular functioning during this academic year from January to March 2021 and rest of the two months will be spent on conducting the examinations. In fact, public examinations may even be commenced and completed before April 2021. Therefore, it will be fit and proper to consider the request made by the institutions to collect the balance 35% of the fees. It is also brought to the notice of this Court that the fee committee has already started the process of determining the tuition fees and the institutions will be informed about the fixation of the tuition fees before the end of this academic year. On such fixation of the fees, the balance fees, if any, can be directed to be paid by the students to the concerned institutions.

7. In view of the above, the unaided private institutions are permitted to collect the balance of 35% of the fees as per Clause (e) extracted supra and this fees shall be paid by the students on or before 28.02.2021. It is left open to the institutions to collect this 35% fees in installments by issuing an appropriate circular. It is also made clear that

any student who has not paid the initial 40% fees and/or the arrears of fees payable for the academic year 2019-2020, shall pay this fees also apart from the balance of 35% of the fees.

8. This Court received various complaints from the parents and students against certain institutions, who had collected or asked the students to pay the entire fees in violation of the orders passed by this Court on 17.07.2020. Those cases are heard separately and already directions have been given to the District Educational Officers (DEOs) and Chief Educational Officers (CEOs) to identify such institutions and ensure that the directions given by this Court is strictly complied with by the private institutions. The directions issued by this Court in the present order shall also be complied with by the private institutions in letter and spirit and the same shall be ensured by the DEOs and CEOs within whose jurisdiction the institution falls. Any complaint received for violation of the orders passed by this Court shall be enquired and a report shall be filed before this Court to enable this Court to initiate action against the concerned institutions.

9. Post this case for **further hearing on 01.03.2021.**

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Note : Upload the order copy on 19.11.2020

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rka/kp

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