

1 21.7.2020

gd/ssd

WP 5890 (W) of 2020
with
CAN 4006 of 2020
(Via Video Conference)

Vineet Ruia
Vs.
State of West Bengal & Ors.

Ms. Priyanka Agarwal
..for the Petitioner.

Mr. Kishore Datta
Mr. Sayan Sinha
..for the State.

Mr. Anirban Ray
..for the Respondent No.8.

Mr. Aniruddha Mitra
..for the Respondent No.9.

Mr. Sabyasachi Choudhury
..for some of the schools.

The limitations of conducting a hearing on the virtual mode come to the fore in this matter. The petitioner represents the parents of over 15,000 students who are enrolled in more than 110 private, unaided schools in and around the city. All the schools have not been made parties. Three of the boards or councils to which the schools are affiliated have been impleaded; but none of such authorities is represented at today's virtual hearing.

The principal grievance that is raised is that the private, unaided schools in the city and elsewhere in

the State continue to demand regular fees though the schools have not functioned for the last four months. The writ petitioner demands appropriate discounts on account of reduced costs in the running of the schools over the last four months. The writ petitioner claims that online courses and examinations have been started by some of the 112 schools that are involved and students whose fees have not been cleared have been barred from participating in the online courses or taking online examinations only on such ground.

The writ petition was apparently filed on July 7, 2020. Because of the increased Covid-19 cases in the city and several court employees being afflicted, judicial work at the High Court was suspended for the last ten days or so and extremely urgent matters have only been taken up on the virtual mode from the residences of Hon'ble Judges assigned the relevant matters. In such circumstances, the writ petitioner filed WP(C) No.000722 before the Supreme Court seeking urgent interim orders till such time that this High Court was able to address the petition. In view of the petition now having been taken up by this court, the writ petitioner has submitted to unconditionally withdraw the petition filed before the Supreme Court. This order is made on the basis of such submission to withdraw the relevant petition from the Supreme Court.

The State Government is represented. Learned Advocate-General submits that requests have been made from time to time by the State Government through notifications, calling upon the private, unaided schools to refrain from increasing the fees and for giving discounts and concessions to the students or parents. It is also the submission of the State that not all private, unaided schools have paid the salaries or dues of their employees, including the teachers.

Some of the schools represented have been heard. It is submitted on behalf of such schools that contractual employees may not have been paid or their services renewed; but regular employees have been paid. However, no particulars in such regard have been furnished either in the petition, nor is it evident that the 112 schools that are involved in this case have either paid all their staff or have even paid them at a reduced level.

A point of maintainability has been taken by some of the schools represented. Prima facie, considering the gravity of the matter, there may not be any merit in such point. However, the issue as to maintainability is left open to be addressed at a later stage.

It is not possible, particularly in the absence of the boards or councils to which the 112 schools are affiliated, to ascertain whether such authorities wield

any power to regulate the fees of their affiliated schools. The writ petitioner will forward copies of this order to all the councils or boards to which these 112 schools are affiliated for such councils or boards to indicate their response before the matter is taken up next on the second Monday of August, 2020.

In addition, the writ petitioner will also forward copies of this order to each of the 112 schools which are involved. Such schools will have liberty to be represented at subsequent hearings. Such schools must attempt to file their affidavits, indicating, in particular, as to whether all the employees of the schools have been paid during the period of lockdown and the extent of discount that such schools are able to afford to the students for the schools not functioning during the relevant period. The State Government is also permitted to use an affidavit to disclose the several notifications that it has issued by way of advisories to the private, unaided schools. The stand of the State Government on the matters in issue should also be broadly indicated in such affidavit.

For the moment, none of the 112 schools involved should discontinue making online courses available to any of its students, unconditionally till August 15, 2020. Further, none of the 112 schools will prohibit any of the students from participating in the online

examinations, if any, till August 15, 2020. These directions are applicable for all classes and all courses. By August 15, 2020, the outstanding dues of each student, as at July 31, 2020, have to be cleared to the extent of 80 per cent. Those already debarred from online courses or online examinations will be restored to their previous status. It is hoped that if substantial payments are made on behalf of the students who are in default, the relevant schools will not discontinue the online courses for any meagre shortfall in payment.

A copy of the petition along with a copy of this order should also be forwarded in the office of learned Additional-Solicitor General in Calcutta.

(Sanjib Banerjee, J.)

(Moushumi Bhattacharya, J.)

