

17.8.2020

ssd

WP 5890(W) of 2020
with
CAN 4006 of 2020
with
CAN 5108 of 2020
with
CAN 5111 of 2020
with
CAN 5149 of 2020
with
CAN 5150 of 2020
with
WP 201 of 2020
with
WP 5378(W) of 2020
with
CAN 3145 of 2020
with
WP 5872(W) of 2020
with
CAN 3956 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. Y. J. Dastoor
Mr. Siddhartha Lahiri
..for the Union of India.

Mr. Anirban Ray
Mr. Debabrata Das
Mr. Partha Banerjee
..for the Respondent No.8.

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

Mr. Sabyasachi Choudhury
Mr. Rajarshi Dutta

Mr. VVV Sastry
Mr. Tridib Bose
Ms. S. Tewary
..for Ashok Hall Group of Schools.

Mr. Satadeep Bhattacharya
Mr. Saptarshi Datta
Mr. Abhijit Chakraborty
..for Southcity International School.

Mr. Anirban Ray
Mr. Arunabha Sarkar
..for B D M International School.
Mr. Jayanta Sengupta
Mr. Debabrata Das
Mr. Partha Banerjee
..for Indus Valley World School and
B D Memorial School.

Mr. Debashis Saha
Ms. Dipika Banu
Mr. S. Roy
..for Paramita Memorial School, Salt
Lake Point School and National
English School.

Mr. Debkumar Sen
Mr. Buddhadeb Das

..for the applicant in CAN 5108 of 2020
and CAN 5111 of 2020.

The prayer made by the petitioners for relaxing the previous order for payment is specifically rejected. However, the payments not made thus far may be made within the next week and, if coercive action has already been taken against the students for non-payment, such coercive action will be undone upon the payment in terms of the order dated July 21, 2020 being made.

Some of the parents complain that despite the

order of July 21, 2020, several schools have not opened windows for the payment of 80 per cent of the dues till July 31, 2020 to be made, since such schools insist on 100 per cent of the dues to be met. If there are any schools which have not opened up windows for payment of the 80 per cent of the fees till July 31, 2020 by the parents or students, such schools will not be entitled to take coercive action against the students or to exclude the students from the virtual classes or taking part in the virtual examinations.

It is proposed that a two-member committee will be appointed to be headed by Professor Suranjan Das, the current Vice-Chancellor of Jadavpur University, provided Professor Das agrees to the court's request. The other member of the committee will be named by Ld. Advocate-General from among recent retired heads of the State Higher Secondary Board or Secondary Board. It is proposed that the committee will be permitted to take the assistance of any accountant or chartered accountant of its choice for the purpose of vetting the accounts of the schools involved in the present proceedings.

In course of working hours today, Advocate-on-

Record for the petitioner in the principal matter [WP 5890(W) of 2020] will furnish the names, particulars, email IDs and contact numbers of all the schools which are likely to be affected by orders passed in the present proceedings, including the 112 schools initially named and the other schools referred to in supplementary pleadings. Copies of such particulars should be furnished to the office of Learned Advocate-General and Learned Additional Solicitor-General in course of the day.

There are several persons who have applied to be impleaded or be heard, including a bus drivers' association, some parents directly and the like. Such applicants are given liberty to address the court without such persons being formally added as parties.

It is proposed that the committee to be appointed by this court will receive the accounts pertaining to the income and expenditure of all the schools involved in the present proceedings within a week from tomorrow. The statements should include an overall summary and particulars justifying the heads indicated in the summary of the statements to be submitted by the individual schools. The statements should be certified

by the regular auditors or by a chartered accountant. The schools which do not furnish the particulars within the time permitted by the order likely to be passed tomorrow, may be restrained from taking any coercive action against the students despite non-payment of further fees by such students. The particulars to be furnished by the schools should include all figures covering the various heads of income and expenditure for the months January to July, 2020. Such figures will give the committee an idea as to what the normal income and expenditure of the schools ought to be and what the income and expenditure has been after the lockdown started towards the end of March, 2020. The object of the exercise is to ascertain the variable costs involved and the extent of concession that the schools ought to pass on to the students and the parents for the schools not incurring such expenditure. The particulars furnished must be verified by an affidavit of the head of the institution and such particulars will be filed in court and copies thereof made over to the committee so that in the event of there being any false declaration or the like in the particulars, appropriate action may be taken against those responsible.

It has been submitted on behalf of the G. D. Birla Centre for Education that an independent civil action has been instituted and some orders obtained; though matters pertaining to the same school have been incorporated in subsequent pleadings filed on behalf of the petitioner and the forum of the guardians involved include parents of students studying in the said school. It has been submitted on behalf of the petitioner in the main matter and in the connected matters that the order that is passed herein should govern all unaided private schools and, as such, no parent or guardian or student of any private unaided school should approach any other forum. There cannot be an omnibus injunction issued by court. However, it is hoped that the matters are not complicated by persons approaching various fora. Since the High Court of the State is in seisin in the matter, the other fora who are approached should be cautious in receiving the actions.

The matter will appear on August 18, 2020 for the committee to be constituted and for other directions to be issued.

Let CAN 3145 of 2020 be struck off since it has already been disposed of.

(Sanjib Banerjee, J.)

(Moushumi Bhattacharya, J.)

