

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition (PIL) No.112 of 2020

Japinder Singh

..... Petitioners.

Vs.

Union of India and Others

..... Respondents.

Dated: 3rd July, 2020

Coram: Hon'ble Ramesh Ranganathan, C.J.

Hon'ble R.C. Khulbe, J.

Hon'ble Ramesh Ranganathan, C.J. (Oral)

Heard Mr. Ajay Veer Pundir, learned Counsel for the petitioner, Mr. Paresh Tripathi, learned C.S.C. along with Mr. Anil Bisht, learned Standing Counsel and Mr. Suyash Pant, learned Brief Holder for the State of Uttarakhand, Mr. V.K. Kaparuwan, learned Standing Counsel for the Union of India, Mr. Shashank Upadhyaya, learned Standing Counsel for the Central Board of Secondary Education, Mr. V.S. Rawat, learned Standing Counsel for the Uttarakhand Education Board and Mr. Sandeep Tiwari, learned Counsel for respondent no.8 and, with their consent, the writ petition is disposed of at the stage of admission.

2. The petitioner has invoked the jurisdiction of this court questioning the order passed by the Government of Uttarkahand dated 22.06.2020 complaining that this order is contrary to the earlier directions issued by us on 12.05.2020 in WPPIL No.59 of 2020. By the G.O. dated 22.06.2020 the following decisions were taken:

1. Only private schools which are conducting online/virtual classes are permitted during the subsistence of this lockdown to charge only tuition fees. No other fees shall be charged from the parents for the students. But where some school is teaching an extra subject online/virtually, in that case the school teaching that extra subject can charge tuition fees as has been prescribed before.

2. That even after benefiting from the online/virtual modes of teaching, if a parent is unable to pay the tuition fees, then he shall inform in detail the reasons, for non-payment, to the principal/admin office and shall be granted additional time for due payment of the tuition fees. The principal/ admin office shall understand the uncommon circumstances that have occurred due to the Covid-19 pandemic and the resultant lockdown, and shall grant extension to the parties to pay the tuition fees. In any case, for non-payment of tuition fees no student shall be expelled from the school.
3. Due to the coronavirus infection, and during the duration of the resultant lockdown, every government / semi-government Officers/ employees benefiting from the online/ virtual modes of teaching shall pay the tuition fees on time.
4. During the Academic Session 2020-21, no private school shall increase the fees in any circumstances.

3. The said order also stipulates that it is applicable to all private schools and all private boarding schools in supersession of earlier orders issued by the Government.

4. The petitioner's complaint in this writ petition is that the private schools in the State are charging tuition fees even from those parents who are in no position to send their children to participate in the online classes; Uttarakhand is a poor State where a large section of populace does not have access to the internet; permitting tuition fees to be collected from such students, who have not even been extended the benefit of online tuition, is arbitrary and illegal; no mechanism has been provided in the Government Order for such parents to complain of any such illegal acts by the private schools; and intervention of this Court is therefore essential.

5. As noted hereinabove, it is only those private schools, which conduct online and virtual classes, which are permitted, during the subsistence of this lockdown, to charge tuition fees, and they are prohibited from taking any other fees. However, where extra subjects are taught online, the private schools are permitted to charge tuition fees as permitted earlier. The said order also requires the schools to consider granting extension of time for payment of tuition fees to such of those parents who are not in a position to pay the tuition fees. It also prohibits the private schools from increasing the tuition fees during the academic session 2020-21.

6. Though the petitioner has not furnished details of the schools, which are charging tuition fees even from such of those students who do not undergo classes online, we are satisfied that a mechanism should have been put in place, by the State Government, to ensure that complaints, from parents in this regard, are inquired into, and action is taken thereafter.

7. While we see no reason to interfere with the guidelines issued in G.O. dated 22.06.2020, suffice it to direct that, during the period when this G.O. remains in force, the State Government shall designate the Chief Education Officer in each District as the Nodal Officer to whom complaints, of violation of the conditions stipulated in the G.O. dated 22.06.2020, can be made by parents of those students who are forced to pay tuition fees, despite their not undergoing online classes.

8. Needless to state that before these Nodal Officers take action against the private schools, on the complaint of any aggrieved parent, the concerned school shall be put on notice, and be given an opportunity of being heard regarding the lapses, if any, on their part.

9. With the aforesaid directions, the writ petition is disposed of. No costs.

(R.C. Khulbe, J.)

(Ramesh Ranganathan, C.J.)