



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

WWW.LIVELAW.IN

D.B. Special Appeal Writ No. 637/2020

Sunil Samdaria Son of Late Sh. B. L. Samdaria, Aged About 46 Years, Resident Of C-235, Nirmaan Nagar, Lane Opp. Shyam Nagar Police Station, Kings Road, Ajmer Road, Jaipur.

-----Appellant

Versus



1. The State Government Of Rajasthan, through Principal Secretary To The Government, Secondary Education, Secretary, Government Secretariat, Jaipur.

2. Director Secondary Education Department, Bikaner.

3. Society Of Catholic Educations Institutions In Rajasthan, Head Offices of Bishops House, Kesar Ganj, Ajmer 305 001, Rajasthan Through Its Vice-President, Rev Bishop Oswald Lewis Son Of Mr Xavier Lewis.

4. NISA Education, A Society Registered Under The Societies Registration Act- Xxi Of 1860 Bearing Registration No. S/1907/ District South/ 2016 Having Its Registered Office At Nisa Education, A-24-D, Gf, Hauz Khas, New Delhi through Its Secretary.

5. Jaipur Sahodaya Schools Complex, Through Its Secretary.

-----Respondents

Connected With

D.B. Special Appeal Writ No. 657/2020

1. Sunil Kumar Yadav S/o Shri P.c. Yadav, Aged About 39 Years, Resident Of Plot No-23, Vijay Nagar -I, Kartarpura, Jaipur

2. Chidrup Jain S/o Shri Paras Mal Jain, Aged About 38 Years, D-31, Path No. 5, Jamna Nagar, Sodala, Jaipur

3. Shivji Prasad S/o Shri Satyanarayan Prasad, Aged About 39 Years, Resident Of Plot No. 70, Uday Nagar-A, Gopalpura Bypass, Jaipur

4. Laxmi Sharma W/o Shri Naresh Sharma, H.no. 834, Jat K Kuwa Ka Rasta, Chandpole Bazar, Jaipur

5. Brijmohan Gupta S/o Shri Girraj Prasad Gupta, Aged About 41 Years, Resident Of Plot No. 232, Shri Gopal Nagar, Mahesh Nagar, Jaipur

6. Naresh Chippa S/o Shri Shankar Lal, Aged About 38 Years, Plot No. 440/201, Dadu Dayal Nagar, Mansarovar,



Jaipur

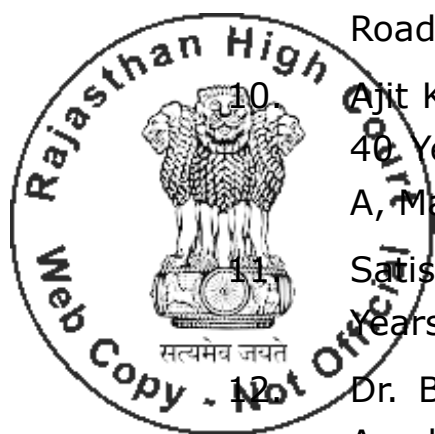
WWW.LIVELAW.IN

7. Ritu Gupta W/o Shri Umesh Gupta, Aged About 45 Years, Resident Of Plot No. 69/12, New Sanganer Road, Mansarovar, Jaipur
8. Pooja Agarwal W/o Shri Deepak Agarwal, Aged About 37 Years, Resident Of 27-A, Vishveshariya Nagar, Near Gopal Pura Bypass Pulia, Triveni Nagar, Jaipur
9. Mahendra Kumar S/o Shri Vasudeo Khatri, Aged About 36 Years, Resident Of Plot No.- 66, Vrindavan Vihar, Kings Road, Ajmer Road, Jaipur
10. Ajit Khandelwal S/o Shri Sitaram Khandelwal, Aged About 40 Years, Plot No. 323, Vivekanand Marg, Gayatri Nagar A, Maharani Farm, Jaipur
11. Satish Kumar S/o Late Shrichand Yadav, Aged About 35 Years, A-38, Janakpuri, Sirsi Road, Jaipur
- Dr. Brij Kishor Sharma S/o Shri Vishnu Kumar Sharma, Aged About 48 Years, Resident Of Plot No. 467, Shri Ram Vihar, Jagatpura, Japur
13. Kushal Agarwal S/o Late G.n. Agarwal, Aged About 38 Years, Resident Of 1134/32 Arya Nagar, Shri Nagar Road, Ajmer
14. Manoj Agarwal S/o Shri Suresh Chand Agarwal, Aged About 32 Years, Plot No. 158, Gali No.3, Jhalkari Nagar, Alwar Gate Ajmer
15. Deepa Kewalramani W/o Om Prakash, Aged About 32 Years, Resident Of Plot No. 7, Pavnsut Colony, Foysagar Road, Ajmer
16. Nemichand Apoorva S/o Shri Ratan Lal, Aged About 42 Years, Plot No. L-70, C-Block, Panchsheel Nagar, Ajmer
17. Subodh Verma S/o Shri Shyam Verma, Plot No. A-35, 3Rd Floor, Dadudayal Nagar, Sanganer, Jaipur
18. Vijay Gupta S/o Shri Nagar Mal Agarwal, Aged About 42 Years, Resident Of Plot No. 302/148, Krishan Sarovar, Near Iscon Temple, Muhana Road, Jaipur
19. Naveen Agarwal S/o Shri Om Prakash Agarwal, Resident Of Plot No. 70, Jawahar Colony Tonk Road, Jaipur

-----Appellants

Versus

1. The State Government of Rajasthan, Through Secretary, School Education and Bhasha, Government of Rajasthan, Rajasthan Secretariat, Jaipur





2. Director, Secondary Education Department, Bikaner
3. Nisa Education, A Society Registered Under The Societies Registration Act Xxi Of 1860 Bearing Registration No - S/1907/district/south/2016, Having Its Registered Office At Nisa Education A-24-D. Gf, Hauz Khas, New Delhi Through Its Secretary
4. Jaipur Sahodaya Schools Complex, Through Secretary, Sector -4, Jawahar Nagar, Jaipur

-----Respondents

D.B. Special Appeal Writ No. 659/2020



1. Jitendra Mishra S/o Shri R.c. Mishra, Aged About 35 Years, R/o Shivprashad Plot No. 19, Gangotri Nagar Gopalpura Bypass, Jaipur, Rajasthan
2. Toshendra Singh S/o Shri Rakshendra Singh, Aged About 37 Years, R/o E 487, Lal Kothi Scheme, Jaipur Rajasthan 302015
3. Arun V.s. Pillai S/o Late Shri Vijay Pillai, Aged About 35 Years, R/o 20/16, A, Girnar Colony, Panchshil Marg, Vaishali Nagar, Jaipur Rajasthan 302021
4. Brijesh Sharma S/o Shri S.c.l Sharma, Aged About 43 Years, R/o Plot No. 166, Triveni Nagar, Gopalpura Bypass, Jaipur Rajasthan
5. Girish Tanks S/o R.k. Tank, Aged About 40 Years, R/o Mahesh Nagar, Tonk Phatak, Jaipur Rajasthan
6. Sunil Kharbanda S/o Tek Chand Kharbanda, Aged About 40 Years, R/o 65/265 Heera Path, Mansarovar, Jaipur Rajasthan

-----Appellants

Versus

1. State Of Rajasthan, Through Principal Secretary, Department Of School Education, Govt. Secretariat, Jaipur
2. Director, Primary And Secondary Education Board, Rajasthan Bikaner
3. Progressive Schools Association, Through Its President Mr. Birendra Shrivastava S/o Shri Avadesh Kumar Verma Aged About 57, R/o 8 Uit Colony Shobhawaton Ki Dhani, East Pal Road, Jodhpur

-----Respondents

D.B. Special Appeal Writ No. 662/2020

1. Director, Secondary Education Department, Bikaner.



WWW.LIVELAW.IN

----Appellant

Versus

Society Of Catholic Education Institutions In Rajasthan, Head Office At Bishops House, Kesarganj, Ajmer, 305001, Rajasthan Through Its Vice-President, Rev. Bishop Oswald Lewis Son Of Mr. Xavier Lewis.

----Respondent

D.B. Special Appeal Writ No. 663/2020

1. The State Of Rajasthan, Through Principal Secretary Department Of School Education, Govt. Secretariat, Jaipur

2. Director, Primary And Secondary Education Board, Rajasthan, Bikaner

----Appellants

Versus

Progressive Schools Association, Through Its President Mr. Birendra Shrivastava, S/o Shri Avadhesh Kumar Verma Aged About 57 Years R/o 8 Uit Colony, Shobhawaton Ki Dhani, East Pal Road, Jodhpur

----Respondent

D.B. Special Appeal Writ No. 664/2020

1. The State Of Rajasthan, Through Secretary School Education And Bhasha, Government Of Rajasthan, Rajasthan Secretariat, Jaipur (Raj)

2. Director, Secondary Education, Rajasthan, Bikaner

----Appellants

Versus

1. Nisa Education, (National Independent Schools Alliance) A Society Registered Under The Societies Registration Act- Xxi Of 1860 Bearing Registration No. S/1907/district/south/2016 Having Its Registered Office At Nisa Education A-24-D, Gf, Hauz Khas, New Delhi Through Its Secretary

2. Jaipur Sahodaya Schools Complex, Through Its Secretary, Sector 4, Jawahar Nagar, Jaipur

----Respondents

D.B. Special Appeal Writ No. 665/2020

1. The State Government Of Rajasthan, Through Principal Secretary To The Government Secondary Education Secretary, Government Secretariat, Jaipur





2. Director, Secondary Education Department, Bikaner

-----Appellants

Versus

1. School Shiksha Pariwar Sanstha, 413, Mansarowar Plaza
Madhyam Marg, Mansarover Jaipur Rajasthan Through Its
President Anil Sharma S/o Shri Ramji Lal Sharma
President Age About 50Years Paterkar Colony Road,
Mansarowar Jaipur, Rajasthan

2. D.g.j. Educational Society, 94, Paterkar Colony, Jodhpur
Through Its President Shri Vaibhav Doshi S/o Shri
Niranjan Doshi Age About 33 Years Hounse No. 95, Sector
7 New Power House Road, Jodhpur

-----Respondents

D.B. Special Appeal Writ No. 676/2020

Nasroodeen Khan S/o Shri Kasim Khan, R/o 132-A, Kastoorka
Nagar, Gautam Marg, Nirman Nagar, Jaipur-302019

-----Appellant

Versus

1. The State Of Rajasthan, Through Principal Secretary To
The Government, Secondary Education, Secretary,
Government Secretariat, Jaipur

2. Director, Secondary Education Department, Bikaner

3. Society Of Catholic Education Institutions In Rajasthan,
Head Offices At Bishops House, Kesar Ganj, Ajmer
305001, Rajasthan Through Its Vice-President Rev
Bishop Oswald Lewis Son Of Mr. Xavier Lewis.

-----Respondents

D.B. Special Appeal Writ No. 680/2020

Hemant Tak S/o Shri Bhawani Shanker, Aged About 46 Years,
R/o 41A, Govind Nagar (West), Mannu Marg, Amer Road, Jaipur
(Raj.)

-----Appellant

Versus

1. The State Government Of Rajasthan, Through Principal
Secretary To The Government, Secondary Education,
Secretary, Government Secretariat, Jaipur.

2. Director, Secondary Education Department, Bikaner.

3. Society Of Catholic Educations Institutions In Rajasthan,
Head Offices At Bishops House, Kesar Ganj, Ajmer
305001, Rajasthan Through Its Vice- President, Rev





Bishop Oswald Lewis Son Of Mr Xavierlewis.

-----Respondents

D.B. Special Appeal Writ No. 713/2020

Private School Parents Society Jodhpur (Registered Society),
Through Its Secretary Surendra Singh S/o Nathu Singh Rathore
Aged 40 Years, Registered Address 97, Central School Scheme,
Air Force Area, Jodhpur (Raj.)

-----Appellant

Versus



1. The State Government Of Rajasthan, Through Principal Secretary To The Government, Secondary Education, Secretary, Government Secretariat, Jaipur
2. Director, Secondary Education Department, Bikaner
3. Society Of Catholic Educations Institutions In Rajasthan, Head Office At Bishops House, Kesar Ganj, Ajmer, 305001, Rajasthan Through Its Vice-President, Rev Bishop Oswald Lewis Son Of Mr. Xavier Lewis.

-----Respondents

D.B. Special Appeal Writ No. 739/2020

1. Amit Chhangani S/o Shri Jagdish Chhangani, Aged About 38 Years, R/o 243, Gayatri Nagar-A, Maharani Farm, Durgapura, Jaipur.
2. Mr. Hemant Kumar Jain S/o Shri R.c. Jain, Aged About 42 Years, R/o 3/95, Jawahar Nagar, Jaipur.
3. Manish Vijayvargiya S/o Shri R.c. Vijayvargiya, Aged About 43 Years, R/o 1150/38, Rangoli Garden, Maharana Pratap Marg, Near Vaishali Nagar, Jaipur.

-----Appellants

Versus

1. The State Government Of Rajasthan, Through Principal Secretary To The Government, Secondary Education, Secretary, Government Secretariat, Jaipur.
2. Director Secondary Education Department, Bikaner.
3. Society Of Catholic Educations, Institutions In Rajasthan, Head Office At Bishops House, Kesar Ganj, Ajmer 305 001, Rajasthan Through Its Vice-President, Rev Bishop Oswald Lewis Son Of Mr Xavier Lewis.

-----Respondents

D.B. Civil Contempt Petition No. 773/2020

Arvind Agarwal S/o Shri Chandrabhan Gupta, Aged About 45



Years, Resident Of Pushp Kunj, 133, Kirti Nagar, Tonk Road, Jaipur.

----Appellant

Versus

1. Mr. Rev. Bishop Oswal Lewis Son Of Mr Xavier Lewis, Vice President Of Society Of Catholic Educations Institutions In Rajasthan, Head Offices At Bishops House, Kesar Ganj, Ajmer 305001, Rajasthan.
2. Mr. Fr. M. Arokiam, Sj, Principal Of St. Xaviers Sr. Sec. School, C-Scheme, Jaipur, Rajasthan.
3. Mrs. Indu Dubey, Principal Of Neerja Modi School, Near Technology Park, Shipra Path, Mansarovar, Jaipur.
4. The State Of Rajasthan, Through Principal Secretary To The Government, Secondary Education, Secretary, Government Secretariat, Jaipur.



----Respondents

D.B. Civil Contempt Petition No. 847/2020

1. Suresh Chandra Sharma S/o Shri Chhote Lal Sharma, Aged About 47 Years, R/o G-71, Yogi Marg, Near Metro Station, Civil Lines, Jaipur Rajasthan.
2. Jitendra Kumar Sharma S/o Shri Santosh Kumar Sharma, Aged About 36 Years, R/o 145, Laxman Path, Shyam Nagar, Sodala, Jaipur, Rajasthan
3. Vinod Saini S/o Shri Om Prakash Saini, Aged About 39 Years, R/o 75, Chitragupt Nagar, Near Kartarpura Phatak, Jaipur, Rajasthan.
4. Kailash Kumawat S/o Sh. Prabhu Dayal Kumawat, Aged About 37 Years, R/o 249, Vivek Vihar, New Sanganer Road, Jaipur.rajasthan.
5. Krishan Kant Sharma S/o Sh. Rameshwar Prasad Sharma, Aged About 40 Years, R/o 269, Vivek Vihar, N.s. Road, Jaipur, Rajasthan.
6. Sanjay Kumar Jain S/o Shri Rampal Jain, Aged About 44 Years, R/o E-87A, Katariya Colony , Ram Nagar Ext, Sodala, Jaipur Rajasthan.

----Appellants

Versus

1. Dr. Rajesh Sharma, Chief Managing Director, Sand Dunes Academy Sr. Sec. School, 116, Vivek Vihar, Sodala, Jaipur (Raj.)
2. Mrs. Achala Choudhary, Administrator/vice - Principi,



Sand Dunes Academy Sr Sec. School, 116, Vivek Vihar,
Sodala, Jaipur (Raj.)

3. The State Government Of Rajasthan, Through Principal
Secretary, Government Secretariat, Jaipur.

-----Respondents

D.B. Civil Contempt Petition No. 864/2020

Shantnu Bansal S/o Lt. Shri Hari Kumar Gupta, Aged About 36
Years, R/o 288, Path No. 6, Vijaywadi, Sikar Road, Jaipur.

-----Appellant

Versus



Shanti Asiatic School, Suncity Township, Sikar Road,
Jaipur, Through Its Director, Shri Deepak Agarwal

Shri Deepak Agarwal, Director, Shanti Asiatic School,
Suncity Township, Sikar Road, Jaipur.

Shri Monika Paliwal, Principal, Shanti Asiatic School,
Suncity Township, Sikar Road, Jaipur.

4. Shri Antar Singh Nehra, Collector, Collectorate , Banipark,
Jaipur
5. Shri Ratan Singh Yadav, Chief District Education Officer,
Secondary Education, District Jaipur, Jaipur.

-----Respondents

D.B. Civil Writ Petition No. 6114/2020

Sunil Kumar Singh, S/o Dr. S.p. Singh, Aged About 53 Years,
R/169/1991, R/o A-578, Panchsheel Nagar, Ajmer - 305004, Also
At 141-B, Ganpati Plaza, M.i.road, Jaipur 302001

-----Appellant

Versus

1. State Of Rajasthan, Through Chief Secretary, Government
Of Rajasthan, Government Secretariat, Jaipur -302005
2. Secretary, School Education, Secretariat Jaipur 302005

-----Respondents

D.B. Civil Writ Petition No. 7564/2020

Society Of Catholic Education Institutions In Rajasthan, Head
Office At Bishops House, Kesarganj, Ajmer, 305001, Rajasthan
Through Its Vice-President, Rev. Bishop Oswald Lewis Son Of Mr.
Xavier Lewis.

-----Appellant

Versus

1. The State Government Of Rajasthan, Through Principal



Secretary To The Government, Secondary Education
Secretary, Government Secretariat, Jaipur.

2. Director, Secondary Education Department, Bikaner.

-----Respondents

D.B. Civil Writ Petition No. 7609/2020

Progressive Schools Association, Through Its President Mr.
Birendra Shrivastva S/o, Shri Avadhesh Kumar Verma, Aged
About 57, R/o 8 Uit Colony Shobhawaton Ki Dhani, East Pal
Road, Jodhpur.

-----Appellant

Versus

1. State Of Rajasthan, Through Principal Secretary,
Department Of School Education Govt. Secretariat Jaipur
2. Director, Primary And Secondary Education Board,
Rajasthan, Bikaner.

-----Respondents

D.B. Civil Writ Petition No. 8163/2020

Shailesh Nath Singh S/o Late Shri Surendra Nath Singh, Aged
About 46 Years, R/o 263,awho Colony, Ambabari,jaipur(Raj)

-----Appellant

Versus

1. State Of Rajasthan, Through Principal Secretary, School
And Sanskrit Education, Department Of Education,
Government Of Rajasthan, Secretariat Building, Near
Statue Circle, Jaipur
2. Union Of India, Through Secretary Department School
Education And Literacy, Ministry Of Human Resources
Development, 124-C, Shastri Bhawan, New Delhi- 01
3. Director, Department Of Secondary Education Rajasthan,
Samta Nagar , Bikaner, Rajasthan - 334001
4. Chairperson, National Commission For Protection Of Child
Rights, 5Th Floor, Chandralok Building,36 Janpath, New
Delhi - 110001

-----Respondents

D.B. Civil Writ Petition No. 8835/2020

1. Nisa Education, A Society Registered Under The Societies
Registration Act Xxi Of 1860 Bearing Registration No
S/1907/ District South/2016, Having Its Registered Office
At Nisa Education A-24-D, Gf, Hauz Khas, New Delhi

Through Its Secretary





2. Jaipur Sahodaya Schools Complex, Through Its Secretary, Sector 4 Jawahar Nagar Jaipur.

----Appellants

Versus

1. State Of Rajasthan, Through Secretary, School Education And Bhasha, Government Of Rajasthan, Rajasthan Secretariat, Jaipur (Raj.)
2. Director, Secondary Education Rajasthan, Bikaner.

----Respondents

D.B. Civil Writ Petition No. 9263/2020

Subash Chadrn Gupta S/o Shri Shimbhu Dayal Gupta, Aged About 56 Years, Resident Of 224, Naya Bus Adda Ke Pas, Majri Kalan, Tehsil Neemrana, District Alwar (Raj) 301703

----Appellant

Versus

1. State Of Rajasthan, Through Principal Secretary, School And Sanskrit Education, Government Of Rajasthan.
2. Directorate Of Elementary Education, Rajasthan, Bikaner, Through Its Director, Lalgarrh Palace, Near, Bikaner, Rajasthan 334001 Aayukt.ele@gmail.com
3. Directorate Of Secondary Education, Rajasthan, Bikaner, Through Its Director, Samta Nagar, Bikaner (Raj.) 334001 Dir.dse@rajasthan.gov.in
4. Rajasthan Council Of Secondary Education, Jaipur Eklavya Bhawan, Dr. Rks Sankul, Jln Marg Jaipur-302015 Spdrmsaraj@gmail.com, Aspdrmsaraj@gmail.com
5. Rajasthan Council Of Elementary Education, Jaipur Block-5, Dr. Rks Sankul, Jln Marg Jaipur-302015 Rajssa_Dir@yahoo.co.in
6. State Institute Of Educational Research And Training, Vidya Bhawan Road, Neemuch Kheda, Udaipur, Rajasthan 313001 Siert_Udr@yahoo.co.in
7. Board Of Secondary Education, Rajasthan, Nh 8, Ajmer, Rajasthan 305001 Secy-Boser-Rj@nic.in

----Respondents

D.B. Civil Writ Petition No. 9857/2020

1. Shashank Agarwal S/o Dr. Rahul Agarwal, Aged About 33 Years, R/o 50, Dhuleshwar Garden, C-Scheme, Jaipur - 302001 Rajasthan

2. Vedant Raj S/o Mr. K.p Bajaj, Aged About 32 Years, R/o





75, Shyam Vatika, Ram Nagar Extension, Sodala Jaipur
32019, Rajasthan

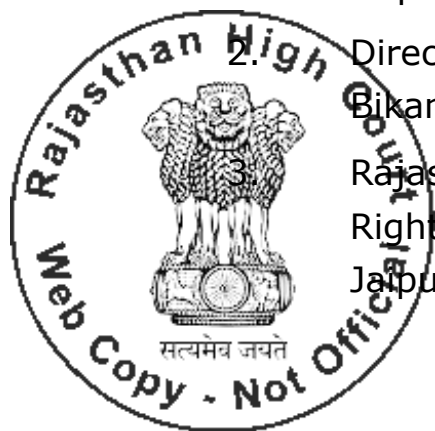
3. Virendra Singh S/o Mr. Govardhan Singh, Aged About 46 Years, R/o 36, Raghunath Vihar, Street No.5, Pancyawala Sirsi Road, Jaipur

----Appellants

Versus

1. State Of Rajasthan, Through Principal Secretary, Department Of School Education
2. Director, Education Department State Of Rajasthan, Bikaner, Rajasthan
3. Rajasthan State Commissioner For Protection Child Rights, Through Chairperson, 2, Jalpath, Gandhi Nagar, Jaipur

----Respondents



D.B. Civil Writ Petition No. 11026/2020

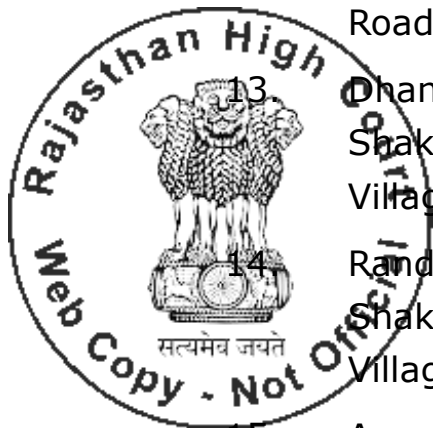
1. Mrinal Singh, S/o Shri Divya Dip Singh, Aged About 49 Years, R/o T-12109 A, Block 28, Rangoli Gardens, Maharana Pratap Marg, Jaipur - 302034.
2. Sulacha Prasad D/o Shri L.s.s. Prasad, Aged About 44 Years, R/o 49, Tomars Farm, Kapashera, New Delhi - 110037.
3. Pushparaj Singh S/o Shri Divya Dip Singh, Aged About 47 Years, R/o A-502, Neelkanth-2, Mem Nagar Fire Station Lane, Navrangpura, Ahmedabad City, Gujarat - 380009.
4. Jasdev Singh Brar S/o Shri Harbans Singh Brar, Aged About 42 Years, R/o House No. 1506/1, Corner Sector 18D, New Sectt. Chandigarh, Chandigarh - 160001.
5. Deepak Jain S/o Shri Ramnik Jain, Aged About 39 Years, R/o House No. 2055, Urban Estate, Near Huda Gymkhana Club, Sector-4, Gurugram, Haryana - 122001.
6. Vikas Jain S/o Shri Vijay Kumar Jain, Aged About 49 Years, R/o Makum Motors, Tulsi Ram Road, Tinsukia, Assam - 786125.
7. Vishant Chowdhury S/o Late Shri Sawarmal Chowdhury, Aged About 44 Years, R/o Chaudhary Cottage, M.g. Road, Beguntari, Jalpaiguri, West Bengal (735101).
8. Sandeep Kuchhal S/o Shri Ravi Prakash, Aged About 48 Years, R/o G-5 Vinoba Marg, C-Scheme, Jaipur, Rajasthan - 302001.

-
9. Randhir Singh S/o Shri Charan Singh, Aged About 48



Years, R/o 4A, Shanti Kunj, Alwar, Rajasthan - 301001.

10. Udai Pratap Singh S/o Shri Randhir Singh, Aged About 44 Years, R/o 422/598 Raipur Raja Hujoorpur Road, Bahraich, Uttar Pradesh - 271801.
11. Sabina Agarwal W/o Shri Kapil Agarwal, Aged About 38 Years, R/o Villa No. B7, Country Homes North, South City, Canal Road, Ludhiana, Punjab - 141071.
12. Abhishek Singh S/o Shri Ummed Singh, Aged About 43 Years, R/o 48 Vrindavan Vihar, Kings Road, Near Ajmer Road, Shyam Nagar, Jaipur, Rajasthan - 302019.
13. Phananjay Singh Shaktawat S/o Shri Narendra Singh Shaktawat, Aged About 41 Years, R/o Rawla Bijaipur, Village Bijaipur, Chittorgarh, Rajasthan - 312022.
14. Randhir Singh Shaktawat S/o Shri Narendra Singh Shaktawat, Aged About 45 Years, R/o Rawla Bijaipur, Village Bijaipur, Chittorgarh, Rajasthan - 312022.
15. Anurag Jain S/o Late Shri Manik Chand Jain, Aged About 46 Years, R/o 17, National Highway, Near South Point School, Silchar, Bajantipur Pt. Ii, Rangirkhari, Silchar Cachar, Assam - 788005.
16. Vijay Verma S/o Shri Dharmendra Verrma, Aged About 50 Years, R/o Verma Building, Gaushala Road, Mohalla Maniharan, Shamli, Uttar Pradesh - 24777.
17. Hitendra Singh Sisodia S/o Shri Umrao Singh Sisodia, Aged About 47 Years, R/o 59, Jawahar Nagar, Ambedkar Marg, Neemuch, Madhya Pradesh - 458441.
18. Rupinder Singh Ranaut S/o Shri Harnam Singh Ranaut, Aged About 47 Years, R/o 2A/2 Barsana Apartment, Khaprail Road, P.o. Matigara, Darjeeling, West Bengal - 734010.
19. Suryaveer Singh Rathore S/o Shri Pradeep Singh, Aged About 44 Years, R/o Dhamli Farmhouse, Kuri Hode Road, Pali Road, Basni Baghela, Jodhpur, Rajasthan - 342001.
20. Brijendra Singh S/o Shri Ramkrishan Singh, R/o E-53F Vipul World, Sector 48 Sona Road, Gurgaon, Haryana - 122018.
21. Neetu Shekhawat W/o Shri Sher Singh Shekhawat, Aged About 43 Years, R/o Flat No. B-805, Madhav Hill, Waghwadi Road, Bhavnagar, Bhavnagar Takhteshwar, Gujarat - 364002.
22. Prithvi Singh Bhati S/o Shri Sukh Singh Bhati, Aged About 42 Years, R/o 259, Sector 7, b, Marg Number-31, bjs





Colony , Jodhpur - 342001.

----Appellants

Versus

1. State Of Rajasthan, Through Principal Secretary, Department Of Education, Government Secretariat, Jaipur.
2. Director, Secondary Education, Bikaner.
3. District Education Officer, Secondary Education, Ajmer.
4. Mayo College Governing Council, Mayo College Ajmer, Srinagar Road, Ajmer.
5. Principal, Mayo College Ajmer, Srinagar Road, Ajmer.
6. Principal, Mayo College Girls School, Srinagar Road, Ajmer.



----Respondents

D.B. Civil Writ Petition No. 12221/2020

1. Ashok Shrimal S/o Shri R.s Shrimal, Aged About 40 Years, R/o 30, Sudama Nagar, Opp. Glass Factory , Jaipur Rajasthan.
2. Ravi Shankar Shrimal S/o Shri N.I Shrimal, Aged About 42 Years, R/o 75, Ganga Vihar Colony, Arjun Nagar, Jaipur, Rajasthan.
3. Jitendra Shrimal S/o Shri R.s Shrimal, Aged About 34 Years, R/o 30, Sudama Nagar, Opp. Glass Factory , Jaipur Rajasthan.
4. Hansa Jain W/o Shri Vikas Tamani, Aged About 34 Years, R/o 102/21, Patel Marg , Mansarover , Jaipur, Rajasthan.
5. Ajay Kumar Jain S/o Shri B.c. Jain, Aged About 40 Years, R/o E-535, Vaishali Nagar , Jaipur, Rajasthan.
6. Asha Megnani W/o Shri Ram Megnani, Aged About 38 Years, R/o Radha Mukut Vihar, Patel Marg, Mansarover, Jaipur, Rajasthan.
7. Tanu Rohatagi W/o Shri Saurabh Rohatagi, Aged About 36 Years, R/o Harvinder Hight , Patrakar Colony, Mansarover , Jaipur, Rajasthan.
8. Alka Agrawal W/o Shri Amit Agrawal, Aged About 39 Years, R/o 31, Radha Swami Nagar, Mansarover, Jaipur, Rajasthan.
9. Yogesh Jain S/o Shri Yogendra Jain, Aged About 40 Years, R/o 983, Barkat Nagar, Kisan Marg , Jaipur, Rajasthan.

10. Pradeep Porwal S/o Shri Chandra Mohan Gupta, Aged



About 36 Years, R/o 732, Rani Sati Nagar, Jan Path, Ajmer Road, Jaipur, Rajasthan.

11. Rakesh Mathur S/o Shri P.n. Mathur, Aged About 46 Years, R/o 95, Shreejee Nagar, Durgapura, Jaipur, Rajasthan.
12. Ashok Yadav S/o Shri Shree Lala Ram Yadav, Aged About 38 Years, 14, Pushpanjali Colony, Tonk Phatak, Jaipur, Rajasthan.
13. Sumit Gupta S/o Shri K.c. Gupta, Aged About 36 Years, R/o 50/4, Rajat Path, Mansarover, Jaipur, Rajasthan.
14. Sapan Kumar S/o Shri Suresh Kumar, Aged About 39 Years, R/o 75/125, Shipra Path, Mansarover, Jaipur, Rajasthan.
15. Yashwant Singh S/o Shri G.s. Chauhan, Aged About 37 Years, R/o 90, Sonabadi, Gopalpura By Pass, Jaipur, Rajasthan.
16. Monika Sharma W/o Shri Kapil Sharma, Aged About 34 Years, R/o 961, Devi Nagar, New Sanganer Road, Jaipur, Rajasthan.
17. Sanjay Srivastava S/o Shri K.c. Srivastava, Aged About 52 Years, R/o 66/11, Hera Path, Mansarover, Jaipur, Rajasthan.
18. Kapil Gupta S/o Shri Rajkumar Gupta, Aged About 33 Years, R/o 1211, B-1, Barkat Nagar, Jaipur, Rajasthan.
19. Jeetendra Kumar S/o Shri Rameshwar Sharma, Aged About 34 Years, R/o 26, Shiva Agency, Sanganer, Jaipur, Rajasthan.
20. Nanchilal Saini S/o Shri Hanuman Saini, Aged About 35 Years, R/o D-39, 6D, Engineers Colony, Mansarover, Jaipur, Rajasthan.
21. P Subash Chandra S/o Shri Balu Ram, Aged About 32 Years, R/o Cd-8, Dadu Dayal Nagar, Mansarover, Jaipur, Rajasthan.
22. Prabhat Ranjan S/o Shri Ramlakhan, Aged About 40 Years, R/o 66/136, V.t. Road, Mansarover, Jaipur, Rajasthan.
23. Rohatash Kumar S/o Shri Balu Ram, Aged About 34 Years, R/o Cd-8, Dadu Dayal Nagar, Mansarover, Jaipur, Rajasthan.
24. Pushpan Karan S/o Shri G.h. Karan, Aged About 40 Years, R/o 785-A, Gali No. 8, Devi Nagar, Jaipur, Rajasthan.





25. Hemendra Rohatgi S/o Shri Rajat Kishore, Aged About 45 Years, R/o 65/207, Heera Path, Mansarover, Jaipur, Rajasthan.
26. C.s. Srinivasulu S/o Shri Lt. C.r. Subraminyam, Aged About 48 Years, R/o A-410, Ekta Path, Vidyut Nagar, Ajmer Road, Jaipur, Rajasthan.
27. Reena Mishra W/o Shri Lt. Surendra Mishra, Aged About 39 Years, R/o Rajat Path, Mansarover, Jaipur, Rajasthan.
28. Bhupendra Prashan Biwal S/o Shri R.p. Biwar, Aged About 36 Years, R/o 66/92, Heera Path, Mansarover, Jaipur, Rajasthan.
29. Bharat Singh Rajawat S/o Shri Durga Singh Rajawat, Aged About 35 Years, R/o 331, Arjun Nagar, Durgapura, Jaipur, Rajasthan.
30. Rajesh Kumar Jain S/o Ramesh Chand Jain, Aged About 40 Years, R/o 60, Mahaveer Nagar, Golyawas, Mansarover, Jaipur, Rajasthan.
31. Vaibhav Mathur S/o Shri C.l. Mathur, Aged About 40 Years, R/o B-110 A, Sumer Nagar Ext., Mansarover, Jaipur, Rajasthan.
32. Anil Kumar Jain S/o Shri Radheyshyam Jain, Aged About 45 Years, R/o 118/7, Agarwal Farm, Mansarover, Jaipur, Rajasthan.
33. Jitendra Mathur S/o Shri Prakash Mohan Mathur, Aged About 50 Years, R/o 116/192, Agarwal Farm, Mansarover, Jaipur, Rajasthan.
34. Ashish Jain S/o Shri A.k. Jain, Aged About 38 Years, R/o 10, Rajawat Farm House, Sfs, Mansarover, Jaipur, Rajasthan.
35. Rajesh Wadhwa S/o Shri B.c. Wadhwa, Aged About 44 Years, R/o 62/116, Heera Path, Mansarover, Jaipur, Rajasthan.
36. Jai Sharma S/o Shri R.s. Shurma, Aged About 42 Years, R/o 203, Patel Nagar, Mansarover, Jaipur, Rajasthan.
37. Nitesh Kumar Gupta S/o Shri R.s. Gupta, Aged About 47 Years, R/o 60/104, Rajat Path, Mansarover, Jaipur, Rajasthan.
38. Raj Kumar Jain S/o Shri M.k. Jain, Aged About 47 Years, R/o 67/12, Heera Path, Mansarover, Jaipur, Rajasthan.
39. Anjali Jain W/o Raj Kumar Jain, Aged About 47 Years, R/o 67/12, Heera Path, Mansarover, Jaipur, Rajasthan.





40. Deependra Mathur S/o Shri Tej Sharan Mathu, Aged About 38 Years, R/o 84/147, Madyam Marg, Mansarover, Jaipur, Rajasthan.
41. Vishal Lallan S/o Lt. Shri S.s. Lallan, Aged About 40 Years, R/o Duaram Park, Shyam Nagar II, Jaipur, Rajasthan.
42. Hemendra Gupta S/o Shri M.p. Gupta, Aged About 40 Years, Triveni Nagar, Gopalpura By Pass, Jaipur, Rajasthan.
43. Ishwar Das S/o Shri Sualal, Aged About 45 Years, R/o 290 A, Madhav Path, Kateva Nagar, New Sanganer Road, Jaipur, Rajasthan.
44. Virendra Sarda S/o Shri Banwari Lal, Aged About 39 Years, R/o Hans Vihar Vistar A, Mansarover, Jaipur, Rajasthan.
45. Reena Sharma W/o Shri Shiv Shankar, Aged About 39 Years, R/o 66/15, Heera Path, Mansarover, Jaipur, Rajasthan.
46. Aakash Sharma S/o Shri Dinesh Chand, Aged About 40 Years, R/o G-4, Pooja House 1St App. Plot No. 575-576, Patrakar Colony, Mansarover, Jaipur, Rajasthan.
47. Rajesh Manglani S/o Shri Thirth Das, Aged About 34 Years, R/o 39/176, Swarn Path, Mansarover, Jaipur, Rajasthan.
48. Vinit Jain S/o Shri Mahendra Kumar, Aged About 42 Years, R/o 581, Ranisati Nagar, Nirman Nagar, Jaipur, Rajasthan.
49. Sumit Sharma S/o Shri Brijendra Sharma, Aged About 37 Years, R/o 50/236, Rajat Path, Mansarover, Jaipur, Rajasthan.
50. Nirbhay Jain S/o Shikhar Jain, Aged About 37 Years, R/o 37 A, Koral Apartment, Dharampark, Shyam Nagar, Ajmer Road, Jaipur, Rajasthan.

-----Appellants

Versus

1. The State Government Of Rajasthan, Through Principal Secretary To The Government, Secondary Education, Secretary, Government Secretariat, Jaipur.
2. Director Secondary Education Department, Bikaner.
3. St. Anselms Sr. Secondary School, Through Its Principal, Heera Path, Mansarover, Jaipur (Raj).

-----Respondents





D.B. Civil Writ Petition No. 12223/2020

1. Dinesh Kumawat S/o Shri Raj Kumar Kumawat, Aged About 43 Years, Resident Of Plot No. H-31, Saini Colony, Ram Nagar Vistar, Sodala, Jaipur, Rajasthan
2. Suresh Chandra Sharma S/o Shri Chhote Lal Sharma, Aged About 47 Years, Resident Of G-71, Yogi Marg, Near Metro Station, Civil Lines, Jaipur, Rajasthan
3. Jitendra Kumar Sharma S/o Shri Santosh Kumar Sharma, Aged About 36 Years, Resident Of 145, Laxman Path, Shyam Nagar, Sodala, Jaipur, Rajasthan.
4. Manoj Pamnani S/o Shri Dayal Das, Aged About 41 Years, Resident Of 52, Roop Vihar, Sodala, Jaipur, Rajasthan.
5. Bhagirath Kabra S/o Shri Sita Ram Kabra, Aged About 47 Years, Resident Of 34-A, Prem Nagar 1St, Gurjar Ki Thadi, Jaipur, Rajasthan.
6. Nanesh Jain S/o Shri Manak Chand Jain, Aged About 32 Years, Resident Of Vivek Vihar, New Sanganer Road, Sodala, Jaipur, Rajasthan.
7. Sushil Kumar Jain S/o Sh. Chirangi Lal Jain, Aged About 48 Years, Resident Of- Plot No. 60-61, Gordhan Colony, New Sanganer Road, Jaipur, Rajasthan.
8. Kailash Kumawat S/o Sh. Prabhu Dayal Kumawat, Aged About 37 Years, R/o 249, Vivek Vihar, New Sanganer Road, Jaipur, Rajasthan.
9. Krishan Kant Sharma S/o Sh. Rameshwar Prasad Sharma, Aged About 40 Years, Resident Of 269, Vivek Vihar, N. S. Road, Jaipur, Rajasthan.
10. Sanjay Agarwal S/o Shri Om Prakash Agarwal, Aged About 45 Years, Resident Of 232, Katewa Nagar, Sodala, Jaipur, Rajasthan.
11. Mukesh Sharma S/o Shri M. C. Sharma, Aged About 45 Years, Resident Of A-6, Radha Vihar Colony, New Sanganer Road, Sodala, Jaipur, Rajasthan.
12. Vikram Singh Rathore S/o Shri Bhanwar Singh Rathore, Aged About 38 Years, Resident Of 8, Hari Nagar Iii, N.s. Road, Jaipur. Rajasthan.
13. Manisha Mankani W/o Shri Leela Ram Mankani, Aged About 40 Years, Resident Of F-22, Mazdoor Nagar,, Gurudware Ke Paas, Jaipur, Rajasthan.
14. Sakshi Khanchandani W/o Shri Tulsi Das Khanchandani, Aged About 39 Years, Resident Of F-22, Mazdoor Nagar,, Gurudware Ke Paas, Jaipur, Rajasthan.





15. Sunita Chhipa W/o Shri Nitesh Chhipa, Aged About 40 Years, Resident Of 116/117, Adarsh Colony, Behind Hdfc Bank, Bagru, Jaipur, Rajasthan.
16. Sanjay Kumar Jain S/o Shri Rampal Jain, Aged About 44 Years, Resident Of E-87A, Katariya Colony, Ram Nagar Ext., Sodala, Jaipur, Rajasthan.
17. Sohan Lal Jain S/o Shri Prem Chand, Aged About 44 Years, Resident Of 50/147, Rajat Path, Mansarovar, Jaipur, Rajasthan
18. Vinod Saini S/o Shri Om Prakash Saini, Aged About 39 Years, Resident Of 75, Chitragnpt Nagar, Near Kartarpura Phatak, Jaipur, Rajasthan.
19. Rajesh Saini S/o Shri K.m. Saini, Aged About 43 Years, Resident Of 97, Deep Nagar, New Sanganer Road, Sodala, Jaipur, Rajasthan.
20. Ankit Sahu S/o Shri Dinesh Sahu, Aged About 26 Years, (Guardian), Resident Of 94, Katewa Nagar, Gurjar Ki Thadi, Jaipur, Rajasthan.
21. Ajay Kumar S/o Shri Bharat Ram, Aged About 38 Years, Resident Of 31/32/07, Swarn Path, Mansarovar, Jaipur, Rajasthan
22. Mukesh Pamnani S/o Shri Dayal Das, Aged About 40 Years, Roop Vihar, Sodala, Jaipur, Rajasthan.

----Appellants

Versus

1. The State Government Of Rajasthan, Through Principal Secretary To The Government, Secondary Education, Secretary, Government Secretariat, Jaipur.
2. Director Secondary Education Department, Bikaner.
3. Sand Dunes Academy Sr. Sec. School, Through Its C.m.d., 116, Vivek Vihar, Sodala, Jaipur(Raj).

----Respondents

D.B. Civil Writ Petition No. 13255/2020

1. Shri Mahaveer Digamber Jain Shiksha Parishad, Through Its Secretary, C-Scheme, Jaipur (Raj.)
2. Secretary, Shri Mahaveer Digamber Jain Shiksha Parishad, Through Its Secretary, C-Scheme, Jaipur (Raj.)
3. Shri Mahaveer Digamber Jain Senior Secondary School, Through Its Principal, C-Scheme, Jaipur (Raj.)

----Appellants



Versus

1. The State Of Rajasthan, Through Its Principal Secretary Department Of Secondary Education, Govt. Secretariat, Rajasthan, Govt. Jaipur.
2. The Director, Secondary Education, Directorate, Bikaner (Raj.)

-----Respondents

D.B. Civil Writ Petition No. 13447/2020

Managing Committee, Maharaja Sawai Man Singh Vidyalaya, Sawai Ram Singh Road, Jaipur, Through Its Chairperson- Mr. Vikramaditya.

-----Appellant

Versus

1. State Of Rajasthan, Through Principal Secretary School Education, Government Of Rajasthan, Secretariat Building, Bhagwan Das Road , Jaipur.
2. Director Secondary Education, Rajasthan, Bikaner.

-----Respondents

D.B. Civil Writ Petition No. 14453/2020

Society Of Catholic Education Institutions In Rajasthan, Head Office At Bishops House, Kesarganj, Ajmer, 305001, Rajasthan Through Its Vice-President, Rev. Bishop Oswald Lewis Son Of Mr. Xavier Lewis.

-----Appellant

Versus

1. The State Government Of Rajasthan, Through Principal Secretary To The Government, Secondary Education Secretary, Government Secretariat, Jaipur.
2. Director, Secondary Education Department, Bikaner.

-----Respondents

For Appellant(s) : Mr. Sunil Samdaria, in person, through VC
Mr. Kamlakar Sharma, Sr. Adv. for petitioner in CW NO. 7609/2020, 7564/2020 with Ms. Alankrita Sharma, through VC
Mr. Rishabh Khandelwal, through VC
Mr. Rishikesh Maharshi, through VC
Mr. Ravi Sharma, through VC
Mr. Mahesh Kumar Sharma, through VC

Mr. Rajesh Maharshi, AAG in S.A.W.





No.662/2020, 663/2020, 664/2020
and 665/2020 with Mr. Apoorv Gupta,
through VC

Mr. Shashank Agarwal, petitioner in
person with Mr. Mahendra Shandilya,
through VC

Mr. Kapil Sharma, through VC

Mr. Jitendra Mishra, through VC

Mr. Nasroodeen Khan, appellant in
person with

Mr. Sameer Sharma, through VC

Mr. Vinod Kumar Singhal, through VC

Mr. Peush Nag, through VC

Dr. RDSS Kharlia, through VC

Mr. Amit Chhangani, appellant in
person, in S.A.W. No. 739/2020,
through VC

Mr. Amit Chhangani, through VC in
CCP NO. 773/2020, 847/2020, C.W.

NO. 12221/2020 and 12223/2020

Mr. Abhishar Bhanu, through VC

Mr. Shailesh Nath Singh petitioner in
person, through VC

Mr. Dinesh Yadav in C.W. NO.
7564/2020, through VC

Mr. Shailesh Prakash Sharma in CW
No. 8835/2020, through VC

Mr. Aniroodh Mathur, through VC

Mr. Krishanveer Singh, through VC

Mr. Mahendra Shah, through VC

Mr. Anuroop Singhi for petitioner in
C.W. NO. 13447/2020, through VC

Mr. Nitin Jain, through VC

For Respondent(s) : Mr. Kamlakar Sharma, Sr. Adv. with
Ms. Alankrita Sharma, through VC in
S.A.W. No. 637/2020
Mr. Rishabh Khandelwal, through VC
Mr. Poonam Chand Bhandari, through
VC
Mr. Shailesh Prakash Sharma, through
VC in SAW NO. 637/2020 and
664/2020
Mr. Rajesh Maharshi, AAG, through
VC
Mr. Dinesh Yadav, through VC in
S.A.W N o. 637/2020
Mr. Kapil Sharma, through VC in
S.A.W No. 637/2020
Mr. Amit Chhangani for respondent in
S.A.W No 637/2020, through VC
Mr. Anuroop Singhi, through VC in
S.A.W No. 637/2020
Dr. RDSS Kharlia, through VC in
S.A.W No. 637/2020
Mr. Prateek Kasliwal in S.A.W No.
637/2020, through VC
Mr. Shivanshu Naval, through VC





Mr. Raunak Bapna, through VC
Ms. Sumitra Choudhary, through VC
Mr. D.S. Dhariwal, through VC
Mr. Hukum Chand Sharma, through VC
Mr. Munesh Bhardwaj, through VC
Mr. C.S. Sinha on behalf of Mr. R.D. Rastogi, ASG, through VC
Mr. A.K. Sharma, Sr. Adv. With
Mr. V.K. Sharma, through VC
Ms. Sangeeta Kumari Sharma, through VC



HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SATISH KUMAR SHARMA

JUDGMENT RESERVED ON :: 16/12/2020

JUDGMENT PRONOUNCED ON :: Dec. 18, 2020

BY THE COURT (PER HON'BLE MR. SHARMA, J):

REPORTABLE

The brief facts given rise to these matters are that the State Government of Rajasthan in the wake of COVID-19 pandemic, vide its order dated 09.04.2020, deferred the collection of school fees for 3 months by the private schools recognized by Primary and Secondary Education Departments.

Subsequently, vide order dated 07.07.2020, the above deferment of collection of fees was extended till the opening of the schools with the stipulation that the name of any student shall not be struck off for non-payment of school fees.

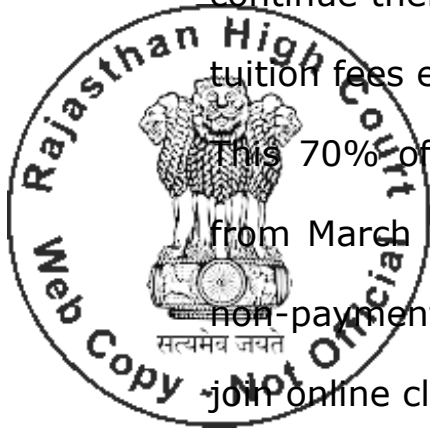
Above orders of the State Government were challenged by way of S.B. Civil Writ Petition No. 7564/2020; Society of Catholic Education Rajasthan Vs. State Government of Rajasthan And Anr., SBCWP No. 8835/2020; NISA Education And Anr. Vs. State of Rajasthan And Anr., SBCWP No. 8826/2020; School Shiksha



Pariwar Sanstha and Anr. Vs. The State Government of Rajasthan and Anr., SBCWP No. 7609/2020; Progressive Schools Association vs. State of Rajasthan And Anr.

S.B. Civil Misc. Stay applications filed in the above SB Civil Writ Petitions were disposed of vide order dated 07.09.2020 with the directions to the schools' management to allow the students to continue their studies online and allow them to deposit 70% of the tuition fees element from the total fees being charged for the year.

This 70% of the tuition fees was to be deposited for the period from March 2020 in three installments with the condition that on non-payment of the said fees, student(s) may not be allowed to join online classes but they shall not be expelled from the school.



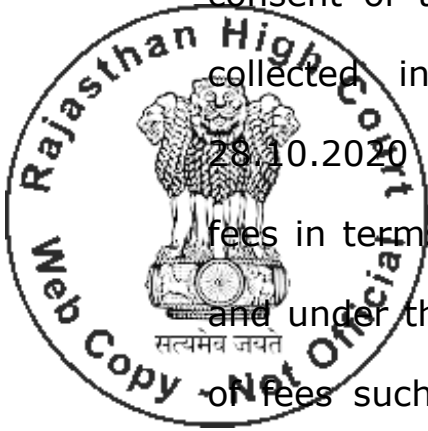
Above mentioned Special Appeal Writs came to be filed, challenging above order dated 07.09.2020.

During the course of hearing, on 23.10.2020, Mr. Rajesh Maharshi, Learned Additional Advocate General submitted before the Court that a committee has been constituted by the State Government for determination of fees to be charged by the private schools for the period of lockdown imposed due to COVID-19 pandemic and the recommendations of the committee shall be filed on 02.11.2020. On the objections raised on behalf of the private schools, the State Government was directed to issue necessary directions by 28.10.2020 positively, regarding interim fees which the private schools shall be allowed to charge subject to final decision in this regard.

In compliance of order dated 23.10.2020, the State Government vide order dated 28.10.2020 issued directions for collection of school fees after opening of the schools to the tune of 70% of tuition fees by the schools affiliated with the Central Board of Secondary Education and 60% from the schools affiliated with



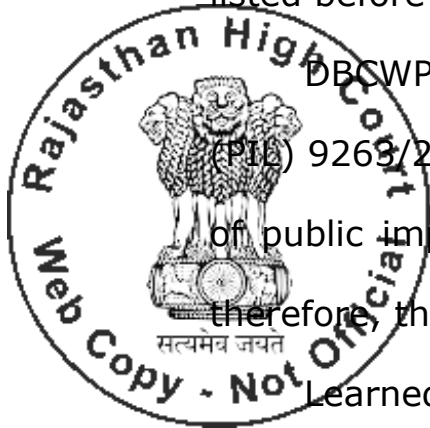
Rajasthan Board of Secondary Education on the basis of reduction of syllabus by the respective Boards. Before opening of the schools, it has been directed that the private schools which are conducting online classes shall be entitled to collect 60% of the tuition fees as "Capacity Building Fees" from the students who are availing the facility of online classes and that too after taking consent of the guardians. Such Capacity Building Fees shall be collected in equal monthly installments. The order dated 28.10.2020 also contains the process of determination of tuition fees in terms of Rajasthan Schools (Regulation of Fee) Act, 2016 and under the Rules of 2017 which envisage that separate heads of fees such as tuition fees, library fees, etc. It has also been directed that the fees prescribed for the last academic session will not be enhanced. The private schools shall not recover the fees for the facilities which have not been provided by them such as laboratory facilities, sports facilities, extra co-curricular facilities etc.



On 07.12.2020 in the course of hearing, learned counsel for all the parties arrived at the consensus that looking at the urgency and importance of the matters and in order for final and expeditious disposal of the same, all the petitions filed regarding collection of school fees by the private schools for the lockdown period imposed due to COVID-19 pandemic should be decided by the Division Bench and the pleadings in all these petitions may be taken as complete and all the matters may be posted for final disposal. In view of this consensus, all such pending matters were directed to be listed before this Bench for final disposal. Learned counsel were required to submit brief written submissions. The applicants who submitted applications for impleadment were also allowed to file their written submissions.



Contempt petition no. CCP 773/2020, CCP 847/2020, and CCP 864/2020 have been listed but contempt petitions are to be dealt with separately. Therefore, the contempt petition no. CCP 773/2020 filed for the non-compliance of order dated 07.09.2020 by learned Single Bench be listed before the Single Bench. Other two contempt petitions no. CCP 847/2020, and CCP 864/2020 be listed before this bench separately.



DBCWP (PIL) 6114/2020, DBCWP (PIL) 8163/2020, DBCWP (PIL) 9263/2020 and DBCWP (PIL) 9857/2020 involve other issues of public importance also which are to be dealt with separately, therefore, these CWP (PILs) be listed separately.

Learned senior counsel, Mr. A. K. Sharma, appearing on behalf of the respondents in the S.B. Civil Writ petition 11026/2020; Mrinal Singh & ors. Vs. The State of Rajasthan & ors. submits that this petition has been filed on an entirely different subject matter and the same has been wrongly listed before this Bench and this petition is to be heard by the Single Bench. Learned counsel appearing on behalf of the petitioner is also in agreement with the submissions of learned senior counsel. Therefore, this petition be listed before Single Bench.

IA No. 4/2020 has been presented by Mr. M.S. Rathore but at the time of call, none appeared on behalf of the applicant. However, the issues raised in the application are being considered in the matter. With this observation, the application stands disposed of.

IA No. 3/2020 has been filed by Mr. Muneesh Bhardwaj, who has been allowed to submit his arguments, therefore, his application stands disposed of.

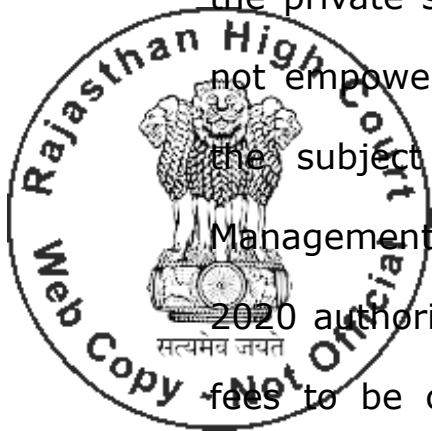
We have heard learned counsel appearing on both the sides
~~in rest of the petitions involving the issue of collection of fees by~~



the private schools, and perused their written submissions as well as the material available on record.

Mr. Kamalakar Sharma, Senior Advocate assisted by Ms. Alankrita Sharma and other counsel appearing on behalf of the schools' management have contended that the State Government has no authority to issue directions regarding collection of fees by the private schools. Article 162 of the Constitution of India does not empower the State Government without making any law on the subject matter. None of the provisions of the Disaster Management Act, 2005 or the Rajasthan Epidemic Diseases Act, 2020 authorizes the State Government to reduce the quantum of fees to be collected by the private schools. Section 43 of the Rajasthan Non-Government Educational Institution Act, 1989 provides for making rules regarding school fees but no provision regarding collection of fees has been made under the Rajasthan Non-Government Educational Institutions (Recognition, Grant in-aid, and Service Conditions Etc.) Rules, 1993. Thus, all the orders issued by the State Government are without any authority, therefore, liable to be quashed.

As per Section 22 of the Act of 2005, all orders under Disaster Management Act, 2005 are to be necessarily issued by the Executive Committee and if such orders are issued by the authority other than the Executive Committee, the same should essentially be authenticated by the State Executive Committee headed by the Chief Secretary to the State Government under Section 68. In this matter initial order dated 09.04.2020 has been issued under the directions of the Hon'ble Chief Minister by the Director, Education. Further, orders dated 07.07.2020 and 28.10.2020 have also been issued by the Director, Education who has no authority to issue such orders under the Disaster



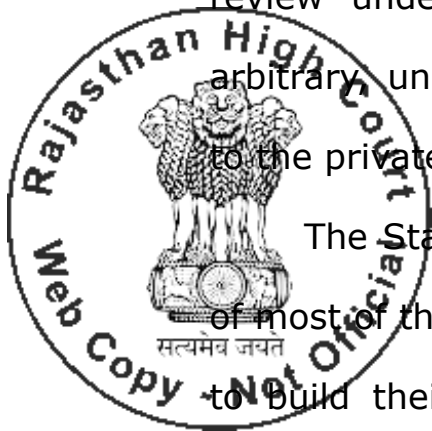


Management Act, 2005, and the same have not been duly authenticated by the State Executive Committee. Thus, without such authentication, these orders are not executable.

It has been further contended that even if for the sake of arguments, all these orders are taken to be issued under the legal authority as a policy decision, the same are open for judicial review under Article 226 of the Constitution of India. Being arbitrary, unreasonable and violative of the legal rights available to the private schools, the impugned orders are not tenable.

The State Government has not considered practical situation of most of the schools that they have taken a huge amount of loan to build their infrastructure, they have to pay regular EMIs to

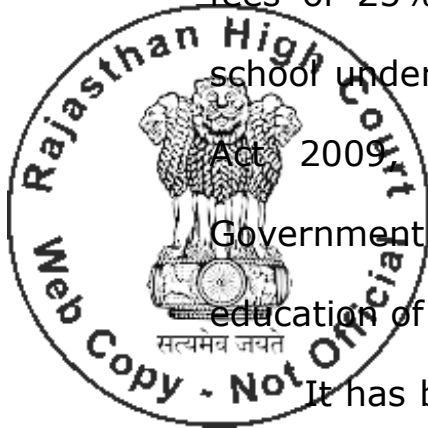
repay the loan amount. They have to maintain their infrastructure and the staff so that the same may be available on reopening of the schools. The only source to meet out the expenses is by the collection of school fees. All the private schools have to pay regular salary to their teaching and non-teaching staff. The State Government has prevented the schools' management from expelling any of the staff during COVID-19 pandemic era or from reducing their salary. Rule 7(f) of the Rajasthan Non-Government Educational Institutions (Recognition, Grant in-aid, and Service Conditions Etc.) Rules, 1993 also provides for withdrawal of recognition in case the institution fails to make regular payment of full pay and allowances through an account payee cheque to its employees before 15th of every next month. All the private schools have incurred extra expenditure for online classes. The State Government vide order dated 28.10.2020 substantially reduced the school fees without considering above aspects. All the private schools are facing great financial hardship. The only source of income of the private schools is the school fees and due to





substantial reduction in fees it has become impossible for them to meet out the minimum expenditure required for above purposes. Thus, the orders of the State Government are quite arbitrary, unreasonable and without any sound reasoning.

Though under Right of Children to Free and Compulsory Education Act 2009, the State Government has to reimburse the fees of 25% of such students who have been admitted to the school under Right of Children to Free and Compulsory Education Act 2009 but in such unprecedented situation, the State Government should bear all the expenses to be incurred on online education of all the students studying in private schools.



It has been further submitted that in 7 states, the respective High Courts allowed the private schools to collect 100% of tuition fees and in the State of West Bengal, 80% of the fee amount was allowed. The orders of all the High Courts were challenged before the Hon'ble Supreme Court but Hon'ble Supreme Court did not grant stay on collection of fees. Thus, the impugned order dated 28.10.2020 is not sustainable which has reduced the school fees drastically.

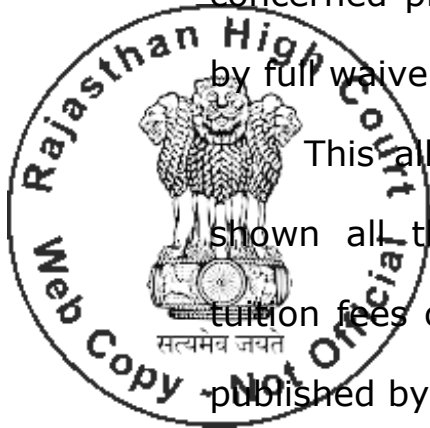
The directions issued by the State Government reducing the school fees is in utter violation of the verdict of Hon'ble Supreme Court in the case of **TMA Pai Foundation and Ors. v. State of Karnataka and Ors. [(2002) 8 SCC 481]**.

It has been further contended that in most of the schools, school fees has been determined in terms of Rajasthan Schools (Regulation of Fee) Act, 2016. There may be a few schools wherein formal determination could not be made strictly in terms of the Act of 2016 but it is with the consent of the parents otherwise they could have challenged the determination of fees under the Act of 2016.



It has been further submitted that almost all the private schools are running on no profit, no loss basis. They are committed to the cause of society by imparting quality education. Generally, they do not deprive any student from education for non-payment of fees due to financial crunch. Therefore, if any student, whose parents are not able to pay the school fees, the concerned private school shall consider his plight sympathetically by full waiver of fees or by giving due concession in the fees.

This allegation is not correct that the private schools have shown all the fees components as tuition fees. However, the tuition fees can be segregated or identified from the components published by the schools in previous years.



The private schools are well aware of their duties. They maintain the standard of education, therefore, immediately after imposition of lockdown, they had no option but to start online education to their students and it could not be a wise step to wait for any formal direction from any authority for such distance learning.

The restrictions imposed by the State Government for collection of fees are also violative of the fundamental rights enshrined under Article 14 and 19(1)(g) of the Constitution of India.

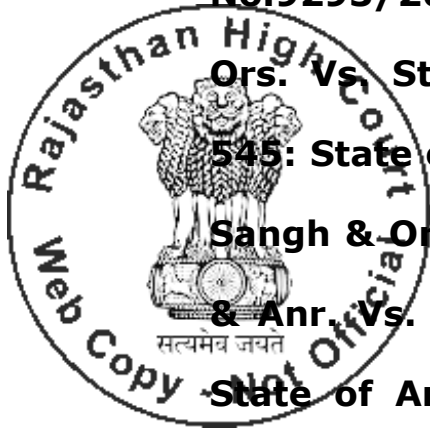
In view of the above, all the impugned orders issued by the State Government are liable to be quashed and set aside and the private schools should be allowed to collect the school fees as already determined by them for the previous session of 2019-20.

The counsel appearing on behalf of the schools' management have relied on the following judgments: **2020 SCC Online CAL 1841:**

Vineet Ruia Vs. Principle Secretary, Department of School Education, Government of West Bengal & Ors.; SLP (c)



Diary No.(S).22811/2020: Association of Schools for the Indian School Certificate West Bengal Chapter Vs. Vineet Ruia & Ors.; CLP No.2202/2020: Independent Schools' Association Vs. State of Himanchal Pradesh & Anr. decided on 24.08.2020; R/WP (PIL) No.64/2020: Nareshbhai Kanubhai Shah Vs. State of Gujarat & Ors; W.P. No.9293/2020: Nagrik Upbhokya Margdarshak Munch & Ors. Vs. State of Madhya Pradesh & Ors.; (2006) 2 SCC 545: State of Bihar & Ors. Vs. Project Uchcha Vidya Sikshak Sangh & Ors.; AIR 1967 SC 1170: State of Madhya Pradesh & Anr. Vs. Thakur Bharat Singh; A. Muthyala and Ors. vs. State of Andhra Pradesh and Ors. (20.02.2018 - HYHC); Writ Petition (c) No.1040/2020: Bilaspur Private School Management Association Society Vs. State of Chhattisgarh & Ors.; W.P. (c) No.10867/2020: Sreelekshmi S. Vs. The State of Kerala; WP-ASDB-LD-VC-100/2020: Association of Indian School & Anr. Vs. State of Maharashtra & Ors.; Writ Petition No.8025/2020: Association of Unaided CBSE Schools Vs. The State of Madhya Pradesh & Ors.; C.W.P. No.7409/2020(O&M): Independent Schools Association Chandigarh (Regd.) & Ors. Vs. State of Punjab & Ors.; 2020 SCC Online Delhi 568: Rajat Vats Vs. Gov. of NCT of Delhi; W.P. (C) No.2993/2020: Naresh Kumar Vs. Director of Education & Anr.; AIR 1951 SC 118: Chintaman Rao Vs. State of Madhya Pradesh; AIR 1952 SC 1961: State of Madras Vs. V.G. Row; WP No. 14032/2020: Gopinath vs. State of Tamil Nadu (Madras High Court); (2007) 2 SCC 230: Raghunath Rai Bareja & Anr. Vs. Punjab National Bank & Ors; (2011) 4 SCC 266: B. Premanand & Ors. Vs. Mohan Koikal & Ors; ~~DB.C.W.P. No.5080/2017: Mayur Public~~





Secondary School Vs. State of Rajasthan & Ors; DB.C.W.P. No.8907/2016: Society for Un-aided Private Schools of Rajasthan, Jaipur Vs. State of Rajasthan & Ors.; (2012) 6 SCC 1: Society for Unaided Private Schools of Rajasthan Vs. Union of India & Anr, (2014) 8 SCC 1: Parmati Educational and Cultural Trust (Regd.) & Ors. Vs. Union of India & Ors., (2002) 8 SCC 481; TMA Pai Foundation & Ors. Vs. State of Karnataka & Ors., (2005) 6 SCC 537: P.A. Inamdar & Ors. Vs. State of Maharashtra & Ors.; (2004) 5 SCC 583: Modern School Vs. Union of India & Ors.

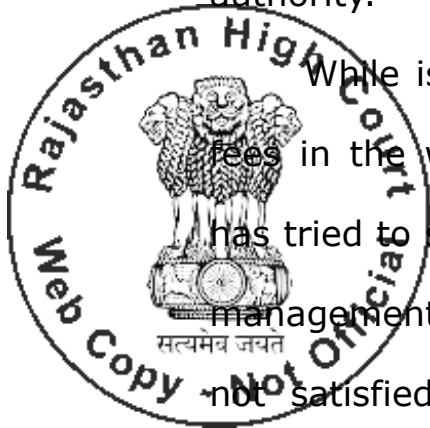


Mr. Rajesh Maharshi, Learned AAG has submitted that initially in the wake of COVID-19 pandemic, the State Government vide order dated 09.04.2020, deferred collection of school fees for 3 months which was further extended till opening of the schools vide subsequent order dated 07.07.2020. Afterwards, in compliance of directions of this Hon'ble Court, a committee was constituted and on due consideration of all the aspects, order dated 28.10.2020 has been issued for collection of school fees. He further submits that if the directions contained in the order dated 28.10.2020 are not acceptable either to the schools' management or to the parents, they may take recourse to the mechanism of determination of school fees as per provisions of Rajasthan Schools (Regulation of Fee) Act, 2016 and Rajasthan Schools (Regulation of Fee) Rules, 2017.

Above directions have been issued under the powers conferred on the State Government under Sections 38, 39, 72 and 73 of the Disaster Management Act, 2005. The act of 2005 has an overriding effect on all other statutes. In addition, Section 4(2)(g) of the Rajasthan Epidemic Diseases Act 2020, empowers the State Government to regulate functioning of the educational institutions



which obviously covers the aspect of collection of fees during the pandemic. Further, Article 162 of the Constitution of India also empowers the State Government to use its executive power for issuing directions regarding collection of school fees during the period of COVID-19 pandemic. Therefore, it is not correct to say that the orders issued by the State Government are without any authority.



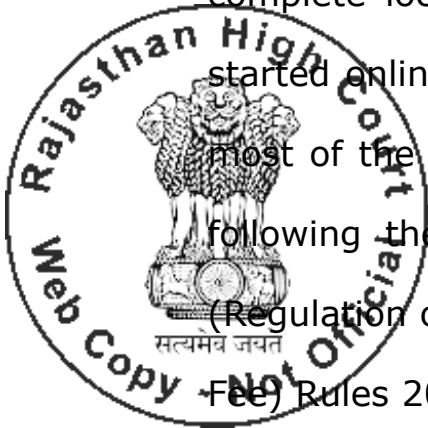
While issuing above directions regarding collection of school fees in the wake of COVID-19 pandemic, the State Government has tried to strike out a balance between the hardships of schools' managements and parents. Moreover, in case any of the party is not satisfied with the directions of the State Government, an alternative mechanism has been suggested for determination of fees in terms of the Act of 2016 and the Rules of 2017. In this alternative process either party shall be free to adopt the directions of the State Government or they may vary the fee as per provisions of the Act of 2016. He has placed reliance on **AIR 1955 SC 54: Rai Sahib Ram Jawaya Kapoor & Ors. Vs. State of Punjab; (1999) 6 SCC 247: Indian Drugs & Pharma & Ors. Vs. Punjab Drugs Manufactures Association & Ors.; 2007 (2) CTC 207: S. Bagavathy Vs. State of Tamil Nadu & Ors.; (2011) 3 SCC 73: K.K. Baskaran Vs. State Rep. by its Secretary, Tamil Nadu & Ors.; (2001) 2 GLR 1394: Bipinchandra J. Divan & Ors. Vs. State of Gujarat & Ors.; W.P. No.11168/2010: Ka. Kalai Kottu Thaya Vs. State of Tamil Nadu & Ors.; (2002) 8 SCC 481: TMA Pai Foundation & Ors. Vs. State of Karnataka & Ors.**

Learned counsel appearing on behalf of the parents have submitted that the State Government has got every power to mitigate the hardships of its citizens under various legal provisions

~~referred to by the Learned AAG. It has been further submitted~~



that during this period, the students are not physically appearing in the school. Only with the object to collect money from the students and for undue enrichment thereby, the schools' management have adopted via media of online education without any guidelines of any competent authority. Most of these schools began online education only after three to four months from the complete lockdown. Most of the schools of rural areas have not started online education so far for want of broadband facility. In most of the schools, the school fees has not been determined by following the procedure as envisaged under Rajasthan Schools (Regulation of Fee) Act 2016 and Rajasthan Schools (Regulation of Fee) Rules 2017.



In order to collect more and more money the Schools' Management have not separately specified the tuition fees and they have included the fees of all heads in one head and thus, they are collecting the fees in violation of directions of the State Government which is not fair on their part.

Most of the schools have expelled their teaching and non-teaching staff and they are not paying salary in full. In online education, the staff is not required to remain present for the whole day and they are working from home, that too for limited hours. Nothing substantial has been incurred by the schools' management for such online classes, on the other hand, the parents have to provide technological infrastructure vis laptops, broadband facility, smartphones, etc. separately for each of their wards.

The financial condition of schools' management and the parents cannot be equated with each other. It has great difference. Majority of the parents have become jobless in the lockdown period and even thereafter.



Thus, in view of unfair steps on the part of schools' management by not bifurcating the element of tuition fees and adapting via media of online classes without any authority, they are not entitled for any tuition fees. At the most, in case they are imparting online education, they may be allowed to collect only 30% of tuition fees. The learned counsel for the parents have relied on the following judgments: **W.P. No.24310-24315/19:P.**

Sridhanya & Ors. Vs. State of Karnataka & Ors.; J.T. 2001 (1) SC 287; Rajasthan High Courts Advocates Association Vs. Union of India & Anr.; (2004) 2 SCC 76; Ram Rao & Ors. Vs. All India Backward Class Bank Employees Welfare Association; (2010) 12 SCC 204; Public Service Commission Uttaranchal Vs. Mamta Bisht & Ors.; DB C.W.P. No.5080/2017; Mayur Public Secondary School Vs. State of Rajasthan & Ors.; (2005) 6 SCC 53; P.A. Inamdar & Ors. Vs. State of Maharashtra & Ors.; W.P. (c) No.500/2020; Ficus Pax Private Ltd. & Ors. Vs. Union of India & Ors.;



The submissions put forth of individual applicants that is parents, schools, teachers are covered in the above submissions therefore need not to repeat the same.

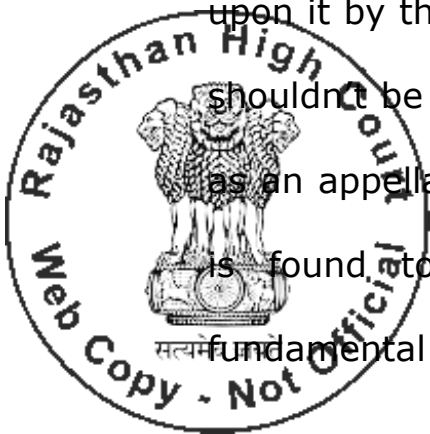
We have considered rival submissions of respective parties and perused the record and the judgments cited above.

Before advertng to the legal aspects of the matter it is appropriate to note that an unforeseen and unprecedented situation arose due to COVID-19 pandemic across the world. For containment of the pandemic so many restrictions have been imposed including complete lockdown. In such a situation, the business of the public at large has been badly affected. Almost all the citizens have been facing acute financial hardships. In such peculiar circumstances the Central Government as well as the



State Government have issued necessary directions for mitigating the plight of the citizens including parents who are finding it difficult to pay the school fees of their ward in such a great financial hardship being faced by them.

It is well settled legal position that if a policy decision is taken by the state government in exercise of the powers conferred upon it by the Constitution of India or under any statute, the same should not be interfered by the courts by replacing its own decision as an appellate body unless in judicial review such policy decision is found to be arbitrary, unreasonable or violative of the fundamental rights of the citizens.



In view of the rival contentions regarding authority of the state government the provisions of Article 162 of the Constitution of India are relevant, which reads as under:

"162. Extent of executive power of State: *Subject to the provisions of this Constitution, the executive power of a State shall extend to the matters with respect to which the Legislature of the State has power to make laws. Provided that in any matter with respect to which the Legislature of a State and Parliament have power to make laws, the executive power of the State shall be subject to, and limited by, the executive power expressly conferred by the Constitution or by any law made by Parliament upon the Union or authorities thereof Council of Ministers."*

The scope of the executive powers of the State Government was challenged before the Hon'ble Supreme Court on various occasions and in the case of **Union of India vs. Mool Chand Khairati Ram Trust [(2018) 8 SCC 321]**, it was held that:-

"We are of the considered opinion that there was no necessity of enacting a law, as the



policy/rules under which the land has been obtained, the hospitals were obligated to render free treatment as the land was allotted to them for earning no profit and held in trust for public good. Similar is the provision in the 1981 rules and apart from that the regulations framed by the Medical Council of India also enjoins upon the medical profession to extend such help and in view of the object of the hospitals, trust and missionaries it is apparent that there was no necessity of any legislation and the Government was competent to enforce in the circumstances, the contractual and statutory liability and on common law basis."



In **The Secretary, A.P.D. Jain Pathshala and Ors. vs. Shivaji Bhagwat More and Ors. [(2011) 13 SCC 99]**, it was held that the scope of Article 162 is wide enough to allow the State to issue administrative directions even if there was no enactment covering a particular aspect, until the legislation makes law on a particular subject.

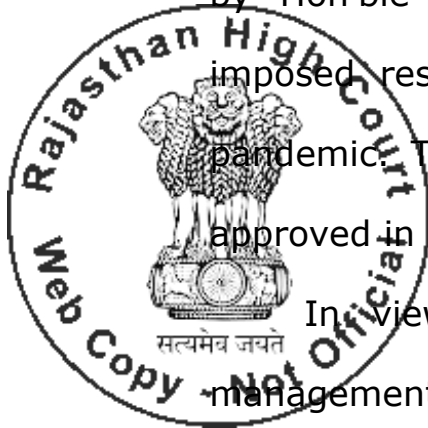
In view of the above legal position, it is not correct to say that the State Government has got no power under Article 162 to issue directions in such unforeseen and unprecedented situation that has arisen due to outbreak of COVID-19 pandemic.

Admittedly, COVID-19 pandemic has been notified to be a disaster and under the Disaster Management Act, 2005, the State Government has power to mitigate the risk, impact or effects of a disaster. Accordingly, the Central Government as well as the State Government have taken necessary steps for the containment of



COVID-19 pandemic by imposing lockdown and various restrictions in exercising the powers vested in them.

The Learned counsel appearing on behalf of Schools' management have themselves referred to the judgments of various High Courts allowing the states to collect the fees in restricted manner and the collection of fees has not been stayed by Hon'ble Supreme Court. All these concerned states have imposed restrictions on school fees in the wake of COVID-19 pandemic. Thus, the power of the State Government has been approved in above cases.



In view of the above, the contention of the Schools' management regarding authority of the State Government is not tenable.

Though all the orders dated 09.04.2020, 07.07.2020 and 28.10.2020 have been issued by the Director, Education and not by the State Executive Committee as prescribed under Section 22 of the Disaster Management Act, 2005 and the same have not been formally authenticated by the State Executive Committee but all the impugned orders have been filed before the Court on behalf of the State Government and it is not so that the Chief Secretary or the State Government has not approved the impugned orders or the same have been issued by the Director, Education in this regard to the authority of the State Government, therefore, only for want of such formal authentication, the orders cannot be termed as in-executable or invalid.

Though the relevant provisions of law, have not been mentioned in the impugned orders but as discussed above the state government has been found to be empowered to issue the impugned orders, therefore, the same would not become invalid



Learned counsel appearing on behalf of the Schools' management have also challenged the impugned orders on the ground that the same are arbitrary, unreasonable and violating the fundamental rights of the private schools.

Initially, the State Government deferred the collection of school fees for 3 months vide order dated 09.04.2020. Since in the beginning of pandemic, complete lockdown was imposed resulting the business and other economic activities at halt, this step for deferment of collection of school fees for 3 months appears to be need of the hour, thinking that the crisis will be over by then but the crisis persisted and accordingly the deferment was further extended till opening of the schools.



Though the State Government could utilize the initial period of three months for issuing appropriate directions for collection of school fees for the period in which the schools had to remain closed due to COVID-19 pandemic but in above critical situation it cannot be inferred that the State Government willfully did not perform its duties.

On bare perusal of order dated 28.10.2020, it is apparent that the State Government has taken care of all the ground realities and has tried to strike a balance between the interests of private schools as well as of parents and students. After opening of the schools, the fees has been reduced to 70% and 60% of the tuition fees on the basis of reduction in syllabus by respective Education Boards. Before opening of the schools i.e. for the period in which the schools remained closed, 60% of tuition fees has been directed to be collected as "Capacity Building Fees" only from those students who have availed the facility of online classes.



It is true that in normal situation the private schools are entitled for collection of school fees as per the provisions of the act of 2016 but as discussed above provisions of the Disaster Management Act, 2005 have overriding effect on all other statutes and the impugned orders have been found to be issued under the act of 2005 for mitigating the plight of the citizens in unprecedented crises of the COVID-19 Pandemic. Therefore, the impugned orders can't be termed as invalid or inexecutable.



As indicated above, the State Government has prohibited the private schools from increasing the fees from the previous session and from collecting the fees for the facilities which they have not provided.

Obviously, the Schools' management are not required to incur same expenditure on upkeep of the school building, electricity charges and on other facilities. The teachers are also working from home for lesser period than physical classes. In these peculiar circumstances, it cannot be said that the directions issued vide order dated 28.10.2020 are arbitrary, unreasonable or biased in nature, more particularly when the State Government has itself suggested alternative mechanism to the private schools and the parents to adopt the recourse as envisaged under the Rajasthan Schools (Regulation of Fee) Act, 2016 and under the Rules of 2017.

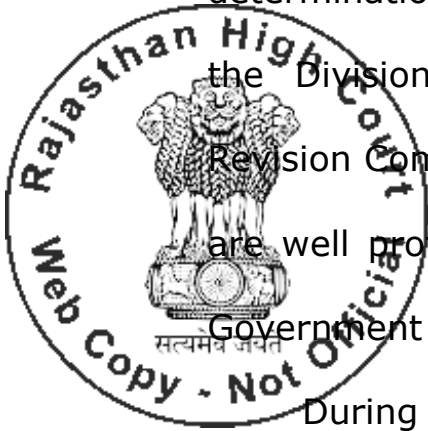
It is true that the private schools have to maintain their infrastructure and to keep their teaching and non-teaching staff intact to run the institution after opening of the schools but it is also equally considerable fact that during complete lockdown period and afterwards most of the parents have lost their jobs and

they are also finding it very difficult to run their family. Therefore,



the directions issued vide order dated 28.10.2020 appears to be a bonafide step taken by the State Government by making balance between the school management and the parents.

A well-defined mechanism is in place in the Act of 2016 and the Rules of 2017 for determination of the school fees and in case the parents or the schools' management are aggrieved to such determination, they may take recourse of appeal/reference before the Divisional Level Committee and before the State Level Revision Committee thereafter. Thus, the interest of both the sides are well protected as per the policy decision taken by the State Government in this regard.



During the course of hearing, the territorial jurisdiction of this Court was challenged by saying that the Progressive School Association consists only the schools situated in the territorial jurisdiction of the Principal Seat, Jodhpur but it has gone un-rebutted that some of the schools of this association are also situated in the territorial jurisdiction of this bench hence, this objection is not maintainable.

Though the allegation of merging all the heads of school fees into one head of "School Fee" has been denied but if it is so then it is unfair on the part of the school management, therefore, they are being directed to publish on their website the components of the fees that will be charged from the parents.

If some schools have expelled the staff or they have reduced their salary during the period of pandemic, they are being directed to publish the strength and salary paid to the staff during the pandemic period in the process of special determination of the fees in terms of the Act of 2016 which takes care of the apprehension of staff.



It has been submitted by learned counsel Mr. Mahendra Shandilya and Mr. Anshuman Saxena that the students of the pre-primary classes have not been included for the purpose of concession in school fees by the State Government but as clearly indicated in the orders issued by the State Government that these directions are applicable on all the private schools recognized by the primary and secondary education department of the State Government. Primary education necessarily includes pre-primary classes which are conducted in the schools recognized by the primary education department. Therefore, all these directions are *mutatis mutandis* applicable for the students of pre-primary classes also.

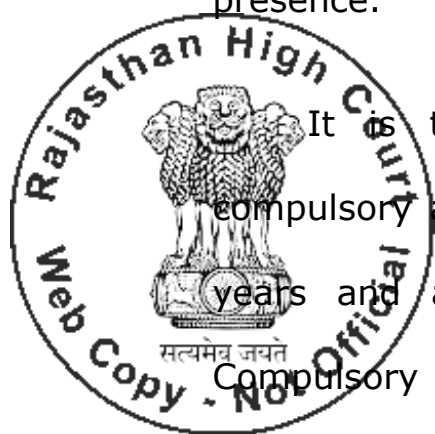


It has also been contented by the schools' management and the parents that the impugned order dated 28.10.2020 has been issued without giving opportunity of hearing to them. That the impugned directions have been issued for all the schools situated in the state but they have not been given opportunity to put forth their stand and therefore the order is liable to be quashed for violation of the principles of natural justice.

It is sufficed to say for the above contention that the state government is empowered to take policy decision and issue necessary executive directions for mitigation of the plight of the citizens under Disaster Management Act, 2005 and it is not obliged to consult the affected parties before issuing such directions and while issuing impugned directions, it is not feasible to give opportunity of hearing to all the schools and parents. Thus, the above contention is not tenable in law.



During the period of complete lockdown and afterwards the employees of state government and private sector have to work from home, therefore, it is not correct to say that the private schools have committed some wrong in imparting online education without any formal guideline particularly when the same education is being imparted online which was to be imparted in physical presence.



It is true that the Article 21-A of India, guarantees compulsory and free education for the children till the age of 14 years and accordingly under Right of Children to Free and Compulsory Education Act, 2009, the state government is obliged to reimburse 25% of school fees of the students whose parents are not able to pay the school fees. The validity of the Right of Children to Free and Compulsory Education Act, 2009, is not in question in these matters therefore, it cannot be held that the state government is obliged to bear the financial burden of school fee of all the students irrespective of the fact that parents are capable of paying the school fee or not.

It has been contented by parents and staff members that some schools have expelled their staff and they have released their salary but Rule 7(f) of the Rajasthan Non-Government Educational Institutions (Recognition, Grant in-aid, and Service Conditions Etc.) Rules, 1993 is in place to protect the services of staff and the impugned direction takes care of their services and payment of the salaries. Besides this, the important directions of the state government also covers all aspects related to schools and parents.



The State Government has issued directions of reducing the school fees in unprecedented situation of COVID-19 pandemic, therefore, it cannot be said that such directions are violative to the verdict of Hon'ble Supreme Court in T.M.A Pai case (supra) in as much as in view of the T.M.A Pai's case Hon'ble Supreme Court has not prohibited the appropriate Government from issuing any directions regarding collection of school fees in such unprecedented situation particularly when such directions are issued in exercise of the powers given under Disaster Management Act 2005.



The legal position as expounded in the above cited judgments cannot be questioned but in none of the judgments it has been held that the Central Government or the State Government have no power to issue necessary directions to mitigate the plight of the citizens in such an unprecedented crisis. It is true that different amount of fees has been allowed to be collected in different states and the State Government of Rajasthan has substantially reduced the school fees in comparison to other states but as indicated above the State of Rajasthan has also suggested alternative mechanism for collection of fees and accordingly the private schools and parents are being given opportunity for determination of the fees in terms of the provisions of Rajasthan (Regulation of Fees) Act, 2016 and Rajasthan (Regulation of Fees) Rules of 2017 and in case the school management or the parents are not satisfied with the directions of the State Government they would be at liberty to adopt the mechanism of determination of fees as envisaged under Rajasthan (Regulation of Fees) Act, 2016 and in this process both the school management and the parents association may agree to



the directions of the State Government or they may increase or decrease the school fees to be levied in the current session of 2020-21. Thus, in view of the unprecedented and peculiar situation, the directions issued by the State Government and the suggested alternative mechanism for collection of fees cannot be held as violative to the judgments cited above.

Thus, as discussed above, all the impugned orders and the alternative mechanism suggested by the State Government during the course of hearing have not been found to be without competence and authority. In the wake of unprecedented situation of COVID-19 pandemic, the State Government has taken necessary steps in due exercise of its powers in order to mitigate plights of the citizens. No bias or any sort of partiality or unfairness can be imputed on the part of the State Government as it has tried to strike the balance between the schools' management and the parents, thus, no case is made out for interference by this Court into the above policy decisions of the State Government.

In view of the above discussion, the rest of the petitions are disposed of as under:-

I. All the private schools recognized by the Primary and Secondary Education Department shall be entitled to collect school fees from the parents of their students including the students of pre-primary classes in terms of the order dated 28.10.2020 issued by the State Government subject to special determination of fees as being directed hereunder.

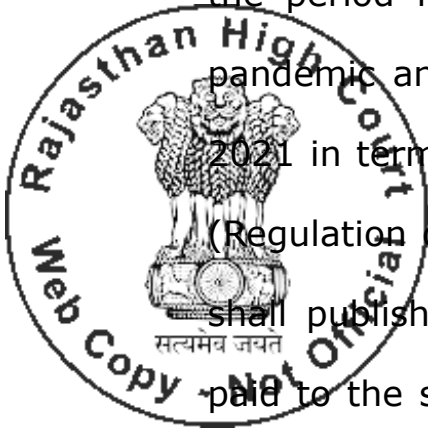
II. All the private schools are directed to form necessary bodies required for special determination of fees within 15 days, if such bodies have not been constituted so far in terms of Rajasthan





Schools (Regulation of Fee) Act 2016, and Rajasthan Schools (Regulation of Fee) Rules 2017.

III. In order to safeguard the interests of the schools' management and the parents, it is further directed that all the private schools recognized by the Primary and Secondary School Education Department shall specially determine the school fees for the period in which schools remained closed due to COVID-19 pandemic and after opening of the schools in the Session 2020-2021 in terms of the provisions of Section 8 of Rajasthan Schools (Regulation of Fee) Act, 2016 and for this purpose all the schools shall publish necessary details including the strength and salary paid to the staff during the period in which the schools remained closed for such special determination on their notice boards as well as on their websites. This special determination of school fees shall be completed within two months from the date of order positively.



IV. With the object to prevent any unfair practice of collection of fees in the process of this special determination of fees the component of tuition fees shall be specifically determined and for that purpose, all heads of the school fees shall be bifurcated as mandated under Section 6 (4) of the Act of 2016.

V. Besides this, the schools' management or the parents may take recourse of the provision of appeal/reference before Divisional Fee Regulatory Committee/Revision Committee, as the case may be in case any of them are aggrieved of such special determination.

Needless to say, that in the process of above special determination of school fees, it will be open for the schools' management and the parents to determine the fees in consonance with the directions contained in order dated 28.10.2020 or they



may increase or decrease the fees to be collected for the current session.

VI. The interim order dated 07.09.2020 passed by learned Single Judge stands vacated.

(SATISH KUMAR SHARMA),J

(INDRAJIT MAHANTY),CJ

