

## NOTICE REGARDING FEES MATTER IN COURT

March 15, 2023

The new academic session for 2023-2024 is about to begin.

The School has all along complied with the directions passed by the Hon'ble High Court in toto, including charging reduced fees during 20-21 and 21-22 in accordance with court advised formulae albeit severely compromising cash flow and financial position of the school. No student has been expelled due to non payment of fees nor for once did the School compromise with the standard of education provided to its students. The order dated 13.10.2020 passed in the aforesaid proceedings gave liberty to schools to recover their losses during the pandemic in course of the next two financial years if normal physical functioning resumes by March 31, 2021.

A legalistic view and proper analysis would reveal that the reduction in the school fees, in reality amounted to 36%. Moreover, in view of the reduction of fees the school had to bear the salaries and fixed cost which resulted in huge shortfall in fee collection, as a consequence of which the school had to increase the fees for the academic session for 2022-2023 in the manner morefully stated therein.

However, regrettably a section of the parents had filed proceedings before the Learned City Civil Court, Calcutta being T.S. No. 1706 of 2022 and T.S. No. 1742 of 2022, inter alia, challenging such increment. Injunction order had also been obtained by suppressing material facts. Subsequently upon contested hearing of the parties such injunction order stood vacated vide order dated 13<sup>th</sup> March, 2023 attached below.

The School values the relationship it shares with each and every parent. However the reasons for the increment in the School fees has been warranted by situations beyond the control of the school. While we fully sympathize with the present socio economic situation being faced due to the pandemic, it is also necessary to appreciate that the school will find it difficult to operate and maintain its standard and quality of education in the event the fees are not enhanced.

Parents are accordingly requested to clear the arrear dues if any, prior to the new academic session at the earliest, in order to ensure smooth functioning thereof.

Yours faithfully

By Order  
Sri Sri Academy  
Managing Committee



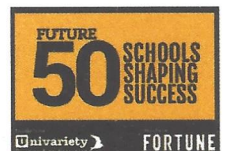
**SRI SRI ACADEMY, KOLKATA**

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**Title Suit 1742 of 2022****Present:- Yasmin Fatma, Judge, Bench-XII (J.O. Code WB00050)****Order no. 11 / dt. 13.03.2023**

Today is fixed for passing necessary order on the petition filed by the plaintiff regarding temporary injunction.

These are two sets of Title Suits – 1. Title Suit no. 1706 of 2022 and 2. Title Suit no. 1742 of 2022 and they will be disposed of by this common order.

In the first Title Suit, Title Suit no. 1706 of 2022, two number of plaintiffs namely *Nishant Gupta and Deepak Ranjan Singh* filed the suit against 1. *Sri Sri Academy*, 2. *Managing Committee of Sri Sri Academy*, 3. *Principal of Sri Sri Academy*, 4. *Joint Director of School Education, West Bengal, Directorate of School Education*, 5. *District Inspector of Schools*. The second Title Suit, Title Suit no. 1742 of 2022 is filed in the form of a representative suit, in which leave was granted by this Court and there are 33 number of plaintiffs / petitioners in that suit.

**The defendants, incidentally, are the very same in both the suits.**

Other side / defendants had filed written objection (affidavit-in-opposition) against the said petition of temporary injunction. Plaintiff's again filed one affidavit-in-reply against the said affidavit-in-opposition of the defendant side.

Hearing took place. Both sides participated in the lengthy hearing. All the three applications on affidavit along with documents (photostat copies) are taken together for consideration and passing of necessary order after the full length hearing.

It is pertinent to mention here that vide order no. 02 dated : 20.08.2022, this Court allowed the plaintiffs to have an ad-interim injunction order in their favour and they are enjoying that order till date as they filed extension prayers before this court for extending that ex-parte injunction order and those were allowed in their favour.

**Relevant portion of the said order :**

*“ Ld. Advocate also draw attention to the order passed by the Hon’ble High Court, Calcutta in W.P.A no. 5890 of 2020 (Vineet Ruia vs Principal Secretary, Department of School Education, Government of West Bengal and others). Advocate submits that in terms of the order of the Hon’ble High Court, Calcutta*

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*the School Authorities are not permitted to raise the fees arbitrarily and thus, this circular of school authority should be declared as bad.*

*Upon perusing the petition and upon hearing the Ld. Advocates and considering the facts of the case, the balance of convenience and exigency this Court is of the view that in the interest of justice there should be an ad-interim order of injunction.*

*Hence, the defendants / respondents no. 1 to 3 are restrained by an order of injunction from giving any effect or further effect to the circular bearing no. C/001/2021-22 dated 12<sup>th</sup> March, 2022 for a period of four weeks.*

*It is clarified that this order of injunction is restricted to the plaintiffs / petitioners and their wards.”*

**Case of the plaintiffs side :**

Now, plaintiffs / petitioners are praying that this order be made absolute till the disposal of the suit. On the contrary the other side's prayer is to vacate the same instantly and also to reject the temporary injunction application filed by the plaintiffs U/O 39 Rule 1 and 2 read with Section 151 of C.P.C.

The main contention of the plaintiffs / petitioners is regarding the arbitrariness of the circular bearing no. C/001/2021-22 dated 12.03.2022, vide which the defendant school namely – Sri Sri Academy, a private unaided school, established under the aegis of '**Sri Sri Ravi Shankar Vidya Mandir Trust**', increased the fee structure for the academic year 2022-23 around 50% more than the previous academic session 2019-20 and in doing so their main and sole intention is to achieve unjust enrichment and unfair gain in the name of imparting education and character building by an Institution which claims to have been established by a non-profitable organisation for imparting good education to the future citizens of India. It is their further submission that the school authorities are extruding money in the garb of recovering losses incurred in the previous academic years during the Covid-19 pandemic from the guardians whose wards are the students of the Academy. It is claimed that the defendant school failed to take any "No Objection Certificate" from the competent authority, Education Department, Government of West Bengal and violated the rule 10(15) of West Bengal Right of Children to Free and Compulsory Education Rules, 2012, so far fees hike concerns. And that has caused mental stress and emotional disturbance to the guardians and ultimately their wards.

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It is their prayer that impugned notice no. C/001/2021-22 dated 12.03.2022 be declared illegal, non-est and cancelled. Their further prayer is to restrain the defendants by an order of permanent injunction from giving any effect to the above mentioned circular.

**Case of the defendants side :**

The contesting defendants in this suit are -

1. Sri Sri Academy School;
2. Managing Committee of Sri Sri Academy;
3. Principal of Sri Sri Academy;
4. The Joint Director : School Education, Government of West Bengal;
5. District Inspector of Schools (S.E).

Defendants no. 1 to 3 appeared and they filed written statement and written objection (against the injunction application filed by the plaintiffs) Affidavit of service has been filed by the plaintiffs and that shows that proper notice, copy of plaint and injunction application etc. were sent upon all the defendants. Only defendants no. 1 to 3 appeared but defendants no. 4 and 5 have not turned up. So the matter has been proceeded and heard exparte against them.

Defendants no. 1 to 3 filed the written objection along with photostat copies of certain documents. They contested the prayer of the plaintiffs over their petition and against the ad-interim injunction which was allowed in their favour by this court on 20.08.2022 by stating that the plaintiffs had suppressed real state of the matter and as such the order passed by this court vide order no. 02 dated 20.08.2022 be vacated instantly and the temporary injunction petition be also rejected because it is completely merit-less.

**Discussion and findings of this Court :**

Admittedly vide order no. 02, dated 20.08.2022, this Court passed an ex-parte order of injunction restraining defendants no. 1 to 3 from giving any effect or further effect to the circular bearing no. C/001/2021-22 dated 12.03.2022 for a period of 4 weeks.

That order got extended till date as the plaintiffs filed petitions for extending that order.

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The principal defendant is a private unaided school, situated at New Alipore, Kolkata. The school was established under the aegis of **Sri Sri Ravi Shankar Vidya Mandir Trust** and is affiliated to the **Council for the Indian School Certificate Examinations**, New Delhi. The wards of all the plaintiffs are students of the said school at various levels. They were the students of the same school pre-Covid-19 times too. Then the pandemic struck the entire world from nowhere and that impacted and changed the lives of all, including those who were /are running the school and who were / are the students there.

Restrictions were imposed, people went indoors, no business, no work, no school colleges were running and even the life line of the nation, **trains**, were rolled back and garaged at Railway yards! Life came to standstill. One new method of education system got introduced. Now students were asked to stay at home and switch on their mobile phones and laptops. Online education system introduced. As whole economy of the nation got hit by the pandemic, parents all over India approached to respective academic Institutions and then to courts so that academic institutions can be asked to cut down with the tuition / school fees because the economy faced a heavy downturn.

Several schools had either rolled back fee-hikes announced earlier or put payment on hold after the lock down. Plaintiffs have referred W.P.A no. 5890 of 2020 along with their injunction application for the perusal of the court.

On careful scrutiny of the 68 page judgement passed by the Hon'ble Justice Sanjib Banerjee and Hon'ble Justice Moushumi Bhattacharya it is found clear that 145 number of schools were before the Hon'ble Court alongside the guardians and Department of School Education, Government of West Bengal. During such hearing, on behest Anglo Indian Schools one letter dated 20.07.2020 of the State Government, addressed by its' Principal Secretary, Department of School Education, to the heads of all schools in the State was produced. That advisory letter had five distinct heads and got mentioned on page 23 of the said judgement. It runs as follows -

*"In view of the pandemic and the difficulties faced by citizens, schools in the State were advised as follows:*

- 1. All schools functioning in the State of West Bengal, should not increase any fee including tuition fee for the academic session 2020-2021.*

2. *School should consider the matter of delayed payment, if any sympathetically.*
3. *Schools should not charge any fee for the services e.g, transport, library, computer lab, sports, extra / co-curricular activities etc not rendered during the lockdown period. Only proportionate charges against the services rendered to the students, be levied, during the period.*
4. *No new fee should be introduced, during the current academic session.*
5. *Students should not be denied the services including the online classes, for want of payment of the required fee as stated due to financial crisis in the ongoing lockdown period”*

In paragraph 61 started from page no. 49 to 58 full directions were laid down under sub-heads (i ) to (xxviii).

Plaintiffs stressed mostly on sub-head (ii), in their plaint as well as in injunction application.

Sub-head (ii) runs as follows :

**(ii) “From the month beginning April, 2020 till the month following the one in which the schools reopen in the physical mode, all 145 schools will offer a minimum of 20 per cent reduction of fees across the board. Non-essential charges for use of facilities not availed of will not be permissible. For instance, additional charges for laboratory, craft, sporting facilities or extra curricular activities or the like will not be permissible during the months that the schools have not functioned in the physical mode. Session fees traditionally charged periodically will be permissible, but again, subject to a maximum of 80 per cent of the quantum charged for the corresponding period in the financial year 2019-20.”**

The plaintiffs / petitioners have not mentioned in their plaint and application filed U/O 39 Rule 1 and 2 read with Section 151 of C.P.C that whether Sri Sri Academy was a participant school in W.P.A no. 5890 of 2020 which they filed along with their injunction application. Be that as it may, the Hon’ble Courts’ judgement in paragraph 61(xxviii) is clear enough when it mentions that -

**“The other private unaided schools in the State should also abide by the directions *mutatis mutandis* particularly since the matter has been heard extensively and as public interest litigation. However, only the disputes**

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**pertaining to the 145 schools included in W.P.A 5890 of 2020 may be referred to the Committee constituted herein; and not the disputes pertaining to other private unaided schools in the state.”**

During the elaborate hearing, defendant school through its’ engaged advocates stated before this Court that after this Order of the Hon’ble High Court, Calcutta the school rolled back its’ fees structure upto 36 per cent though only 20 per cent reduction was directed by the Hon’ble Court. Plaintiffs side opposed the submission by stating that this claim has not been substantiated by a scrap of paper by the defendant school. On the contrary, plaintiffs / petitioners mentioned in their plaint and application of temporary injunction that there is almost 50 percent increment in the revised fee structure for the academic session 2022-2023 from the academic session 2019-2020. There is absolutely no mention though about the fee structure of 2020-2021 by the plaintiffs either in their application or in verbal submission. This was necessary for the understanding of this Court that whether Sri Sri Academy rolled back their fee structure or not during those days. Here it is necessary to mention that documents submitted by the defendant school clearly shows that the defendant school became a party to WPA 5890 of 2020 subsequently, along with certain more schools.

Since the arrival of Covid-19 pandemic the school/ colleges/universities were shutdown. In schools online classes introduced.

Subsequently, on 14.02.2022 vide notification of State Government, Primary, Upper Primary Schools and others were thrown open to physical mode of education from 16.02.2022.

Taking note of the situation and after hearing all the Ld Counsels who appeared on behalf of their respective parties, the Hon’ble Court in W.P.A (P) 162 of 2021 pleased to modify the interim orders which were in operation as on that day to the following effect :

- a. With prospective effective from 16<sup>th</sup> February, 2022, that part of our order permitting deduction of 20% of school fees shall stand vacated.**
- b. The schools and other educational institutions shall be permitted to charge fees according to their policy and arrangement with the students.**

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**c. Upto 28<sup>th</sup> February, 2022, subject to (d) below students shall pay the school fees according to the interim orders made by us prior to this day, for online classes.**

**d. In case of any dispute between the school fees claimed and the school fees payable according to a student for the period upto today, 50% of the demand by the school or the admitted amount by the student whichever is higher, has to be paid without pre-judice to the rights and contentions of the parties in this litigation, by 15<sup>th</sup> March, 2022. Our earlier interim order with regard to payment of the disputed amount stands modified to this extent.**

**e. Till 31<sup>st</sup> March, 2022 or until further orders, whichever is earlier, no coercive action like expulsion of any student from the school, withholding of admit card to sit for any Board or School examination, withholding of mark-sheets or certificates on the ground of default in payment of school fees, shall be taken by the schools or other educational institutions covered by this litigation against any student.**

Even after this Order, the Hon'ble Court in W.P.A no. 5872 of 2020 passed another order and pleased to mention that -

*(a) Any dispute arising today onwards between the participating schools and the students shall be dealt with according to the arrangement or contract between the parties.*

*(b) The Joint Special Officers shall as soon as possible convene a meeting which shall be attended by the representatives of the schools and the students. Minimum attendance is encouraged. In that meeting the Joint Special Officers shall indicate to the participants their outstanding remuneration, in terms of our earlier order, the manner and the time and date by which it has to be paid. Their decision in this matter shall be final and binding on all the parties. The remuneration has to be paid by the timeline set by the Joint Special officers.*

*(c) After the remuneration of the Joint Special Officers has been paid, another meeting shall be convened by them where the schools and the parents of the students may file applications in the form of letters*



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*stating their grievances. The time limit for filing such applications shall be specified by the Joint Special Officers.*

*(d) On receipt of the said applications the Joint Special Officers shall provisionally decide the issue required to be decided by them in terms of our existing orders and file a report in this Court before the returnable date of these applications.*

*We make it clear that if the parties do not cooperate with the Joint Special Officers they will be under no obligation to hold the meetings or file any report.*

*(e) All existing interim orders are to be strictly complied with by all the parties. No student shall be rusticated from school, denied promotion, certificates, identity cards etc, prevented from attending classes or board examination or treated differentially for any alleged default on his or her part during the period during which the fee concession order was in operation, without the leave of this Court.*

*Next date for listing all the Writ applications and connected applications were fixed on 26.08.2022.*

The above mentioned order was passed by the Hon'ble Justices, Justice Moushumi Bhattacharya and Justice I.P Mukherjee. Just after coming into the picture of this Order, plaintiffs / petitioners appeared before this court (XII<sup>th</sup> Bench, City Civil Court, Calcutta) and filed two separate Title Suits and produced the copy of judgement passed by Hon'ble Justices, Justice Sanjib Banerjee and Justice Moushumi Bhattacharya in W.P.A 5890 of 2020 and keeping faith in their submission, this Court granted ex-parte order of injunction in their favour. In this respect, it is necessary to mention that the plaintiffs / petitioners never produced the copies of Orders passed by the Hon'ble High Court, Calcutta in W.P.A (P) 162/2021 and W.P.A 5872 of 2020 or any other related W.P.As for the perusal of this court at the time of hearing the ex-parte injunction application.

Plaintiffs / petitioners filed the Title Suit no. 1742 of 2022 on 18.08.2022. It was made clear in paragraph 62 (page : 58) of W.P.A 5890 of 2020 that the order may not be used as a precedent for the regulation of fees in the schools in future. It is further mentioned in that paragraph that **"The present measure may be seen as an extraordinary step in an unforeseen situation to somewhat**

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relieve the parents and guardians of students of their financial burden in the economic distress brought about by the pandemic”.

It is further mentioned in paragraph 63 of the same order that the writ petition will remain pending till the physical classes are resumed in the schools and the directions contained herein are worked out completely, which is why it is found that further orders were also passed time to time over the same issue.

This is very strange that when Hon'ble Court mentioned it in clear terms that the order of W.P.A 5890 of 2020 may not be used as a precedent for the regulation of fees in the schools in future, why the same thing adopted by the plaintiffs / petitioners before this forum, while they moved the injunction application here in this court on 20.08.2022?

This is completely intriguing and curious that when so many W.P.As were filed in the High Court, orders were passed time to time, so many private unaided schools, parents and government departments were before the Hon'ble Court, then what compelled these 33 number of parents to appear before this Court through a plain suit and another representative suit for injunction order so that Sri Sri Academy can be prevented from giving effect to circular bearing no. C/001/2021-22. Plaintiffs / petitioners drew the attention of this court on Section 15(XIX) of West Bengal Right of Children to Free and Compulsory Education Rules, 2012 which made it essential that fees structure for the students cannot be enhanced without the prior permission of the State Government.

The plaintiffs / petitioners ought to have registered all their grievances directly to the Education Department, Government of West Bengal for violation of norms and also could have registered their objection and resentment to the Hon'ble Court appointed Joint Special Officers but instead they appeared in this Court and right now there is one order of injunction in place against the circular C/001/2021-22 of Sri Sri Academy. In this way **multiplicity of forums and orders have taken place which is not warranted** in the given situation. **This is also against judicial decorum, discipline and propriety, because the Hon'ble High Court is already considering the subject matter.** Throughout the plaintiffs / petitioners have stated emphatically that the school is trying to collect hiked fees from the students. According to them, the school authorities seem to be indulging in **profiteering, commercialization, capitation** and exploitation of parents by charging unwarranted fees, and as such it has violated the rules. The fee increment for the academic year of 2022-23 has hit the parents hard.

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On the contrary Ld. Counsels for the defendant school repeatedly stated that the school authority rolled back fee hiked and put hold on realising the fees upto 36% after Hon'ble Court's order during the Covid time and declared the increment when Hon'ble Court pleased to modify the earlier order/s when physical classes started in the year 2022. They also mentioned that their school incurred loss of around 5 crores due to suspension of classes during Covid-19 pandemic. They made it clear that the school hiked the fees only when the Hon'ble Court lifted the interdiction order passed earlier, in W.P.A 5890 of 2020. Plaintiffs side state that the school concerned hiked the fees upto 50% (50 percent) from 2019-20 to academic session 2022-2023. Can there be no increment in fee structure from 2019-20 to 2022-23? Can it be static considering the rise in price hike of all things around? Prices of food, shelter and essentials are skyrocket nowadays, can anybody deny it? True, all schools have to keep it in their mind that they are not institutions for making money and to indulge in profiteering but the equal opposite is also true that if they are allowed to run in complete loss then they cannot survive. Parents cannot dictate to any private unaided school that how much increment they will notify and how they will run their management.

A school fee is an agreed amount of money that parents pay to school, aimed at improving the quality of education of learners. Running of school costs a lot of money and these costs only keep increasing every year. The website of the school (Sri Sri Academy) mentions their fee structure. The guardians go through it in details before getting their child admitted there. They know it well that getting admitted their children in private unaided schools means waiver of their ward's right to get free education in future. Due to Covid-19 pandemic and certain other issues, it is found that such schools waived fees or cut it down following appeals from parents, citing some genuine resource constraints. But how that special arrangement will keep on going even during normal years? No private unaided school will survive if they have to manage their affairs without increasing their fee structure during new academic sessions.

An unaided educational institution, is a class of private educational institutes in India. They are distinct from so called "aided" Private educational institutions. The term covers institutes ranging from primary schools to higher education colleges. In unaided educational institutions, salaries are paid by the private institutions to the members of staff and teachers. In the 'aided' sector,

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salaries are paid by the government. School fees of private unaided schools should be school based and not a rigid or uniform arrangement. The process of determination of school fees is a dynamic exercise and could be effectively done by the school management on its own while keeping in mind that establishing a school is essentially a charity. The State can regulate the fees determined by the private unaided schools only if it shows that the same entails in profiteering or capitation, which is prohibited by law.

**In Islamic Academy of Education vs State of Karnataka (2003)6 SCC 697, it can be seen in the judgement of the Hon'ble Apex Court, "so far as the first question is concerned, in our view the majority judgement is very clear. There can be no fixing of a rigid fee structure by the Government. Each institute must have the freedom to fix its own fee structure taking into consideration the need to generate funds to run the institution and to provide facilities necessary for the benefit of the students. They must also be able to generate surplus which must be used for the betterment and growth of that educational institution. In paragraph 56 of the Judgement it has been categorically laid down that the decision on the fees to be charged must necessarily be left to the private educational institutions that do not seek and which are not dependent upon any funds from the Government. Each institute will be entitled to have its own fee structure. The fee structure for each institute must be fixed keeping in mind the infrastructure and facilities available, the investments made, salaries paid to the teachers and staff, future plans for expansion and / or betterment of the institution etc. Of course there can be no profiteering and capitation fees cannot be charged. It thus needs to be emphasized that as per the majority judgement imparting of education is essentially charitable in nature. Thus the surplus / profit that can be generated must be only for the benefit / use of that educational institution. Profits / surplus cannot be diverted for any other use or purpose and cannot be used for personal gain or for any other business or enterprise."**

Considering the foregoing discussion, I am of the view that so many Writ applications have already been heard, orders passed from time to time and Joint Special Officers appointed in those Writ petitions by the Hon'ble High Court, Calcutta to look after the related issues, then this is completely out of place to file Title Suits and restrict the school management of one particular school of South

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Calcutta regarding new fee structure for the academic year 2022-2023, with the help of injunction orders of this Court so that the school concern can be prevented from giving effect to schools' circular bearing no. C/001/2021-22 dated 12.03.2022. It is to be mentioned that Sri Sri Academy School is a participant school before the Hon'ble High Court, Calcutta in those Writ applications.

Hence, it is

**ORDERED**

that the temporary injunction application, U/O 39 Rule 1 and 2 read with Section 151 of C.P.C and filed by the plaintiffs / petitioners in **Title Suit no. 1742 of 2022** against the defendants no. 1 to 5 for restraining them from giving any effect or further effect or acting in furtherance to the **circular bearing no. C/001/2021-22 dated 12.03.2022**, is considered and rejected, on contest against defendants no. 1 to 3 and on ex-parte against defendants no. 4 and 5.

Ex-parte injunction order (ad-interim injunction order) passed by this Court vide order no. 02 dated 20.08.2022 is **vacated** instantly.

To-date for hearing over the issue regarding maintainability of the suit in this Court. Id. Advocates are requested to participate in the hearing.

D/c by me

Judge, Bench-XII  
City Civil Court, Calcutta

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City Civil Court, Calcutta.  
13.03.2023