

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE MANINDER S. BHATTI

ON THE 30th OF JULY, 2024

WRIT PETITION No. 20403 of 2024

GYAN GANGA ORCHIDS THE INTERNATIONAL SCHOOL

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Shri Sankalp Kochar - Advocate for the petitioner.

Shri Bramhadatt Singh - Deputy Advocate General for the State.

.....
WITH

WRIT PETITION No. 19582 of 2024

*ST. ALOYSIUS SENIOR SECONDARY SCHOOL POLIPATHAR
JABALPUR AND OTHERS*

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....
Appearance:

Shri Anshuman Singh - Advocate for the petitioners.

Shri Bramhadatt Singh - Deputy Advocate General for the State.

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WRIT PETITION No. 19583 of 2024

STEAMFILED INTERNATIONAL SCHOOL

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Shri Sankalp Kochar - Advocate for the petitioner.

Shri Bramhadatt Singh - Deputy Advocate General for the State.

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WRIT PETITION No. 19587 of 2024

*ST. ALOYSIUS SENIOR SECONDARY SCHOOL SADAR CANTT.
JABALPUR AND OTHERS*

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Anshuman Singh - Advocate for the petitioners.

Shri Bramhadatt Singh - Deputy Advocate General for the State.

WRIT PETITION No. 20724 of 2024

ST. JOHNS SENIOR SECONDARY SCHOOL DAMOH

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Anshuman Singh - Advocate for the petitioners.

Shri Bramhadatt Singh - Deputy Advocate General for the State.

WRIT PETITION No. 20824 of 2024

***CHRIST CHURCH BOYS SENIOR SECONDARY SCHOOL JABALPUR
AND OTHERS***

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Anshuman Singh - Advocate for the petitioners.

Shri Bramhadatt Singh - Deputy Advocate General for the State.

WRIT PETITION No. 20825 of 2024

***CHRIST CHURCH JABALPUR DIOCESAN HIGH SCHOOL ISC
GHAMAPUR JABALPUR AND OTHERS***

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Anshuman Singh - Advocate for the petitioners.

Shri Bramhadatt Singh - Deputy Advocate General for the State.

WRIT PETITION No. 20912 of 2024

CHRIST CHURCH SCHOOL FOR BOYS AND GIRLS ISC JABALPUR

AND OTHERS*Versus***THE STATE OF MADHYA PRADESH AND OTHERS****Appearance:***Shri Anshuman Singh - Advocate for the petitioners.**Shri Bramhadatt Singh - Deputy Advocate General for the State.***ORDER**

This order shall govern disposal of all the aforementioned writ petitions.

2. In this batch of petitions, there is challenge by the petitioners to the orders impugned, which have been passed by the District Committee in exercise of power conferred under *Madhya Pradesh Niji Vidyalaya (Fees Tatha Sambandhit Vishayon Ka Viniyaman) Adhiniyam 2017* (hereinafter referred to as the Act of 2017) and also the Rules called *Madhya Pradesh Niji Vidyalaya (Fees Tatha Sambandhit Vishayon Ka Viniyaman) Rules, 2020* (hereinafter referred to as the Rules of 2020).

3. The grievance of the petitioners is that the orders impugned have been passed by the Committee in violation of the statutory provisions contained in the Act of 2017 as well as the Rules framed thereunder. It is contended that the District Committee so constituted in terms of the Act of 2017 is only empowered to regulate the fee but cannot itself fix the fee, whereas in the present cases, the fee as been fixed by the District Committee itself and, therefore, the impugned orders are *prima facie* without jurisdiction. It is further contended by the counsels for the petitioners that the principles of natural justice have been violated in the present cases. The District Committee was required to ensure adherence to the principles of

natural justice and in terms of Section 9(5) of the Act of 2017, the District Committee was required to conduct an enquiry as was empowered to exercise the power of Civil Court in respect of the matters which are mentioned in Section 9(5) of the Act of 2017. It is the contention of the counsel that though Chapter 3 of the Act of 2017 provided for process of regulation of increment in fee and as per the provisions contained in the said chapter, concerned Schools were required to submit audited accounts of proposal regarding enhancement of fee in the portal but undisputedly, there was no availability of portal till the year 2020. Later on, after enforcement of Rules of 2020, the portal was opened. It is submitted that the portal gives no option to submit audited accounts of preceding 3 years and, therefore, it was not possible for the petitioners to submit the said requirement in portal. It is contended by some of the petitioners that the information regarding annual fixation of fee has been duly submitted in the portal. It is contended that there was negligible increase/hike in fee, yet exorbitant penalty has been imposed and there are directions to refund the excess fee.

4. In W.P. No. 20403 of 2024, Shri Sankalp Kochar submits that in the present case the impugned order is unsustainable. No opportunity of hearing was afforded by the District Committee, therefore, as there is violation of principles of natural justice and also statutory provision, the petition before this Court is maintainable and the operation of the impugned order deserves to be stayed. In support of the aforesaid contentions, the counsel has relied upon the decision of the Apex Court in **Whirlpool Corporation Vs. Registrar of Trade Marks, Mumbai and others - (1998) 8 SCC 1; Godrej Sara Lee Ltd.**

Vs. Excise and Taxation Officer-cum-Assessing Authority and others - 2023
SCC OnLine SC 95; Radha Krishan Industries Vs. State of H.P. - (2021) 6
SCC 771, U.P. Power Transmission Corporation Ltd. Vs. C.G. Power &
Industrial Solutions Ltd. - (2021) 6 SCC 15 and State Bank of Patiala Vs.
S.K. Sharma - (1996) 3 SCC 364 and submitted that alternative remedy is not a bar in exercising the writ jurisdiction under Article 226 of the Constitution of India.

5. In W.P. No. 20724 of 2024, Shri Anshuman Singh, counsel for the petitioner submits that in the present case, an order has been passed pertaining to decision taken by the School regarding colour of the Uniform. It is contended that it is not within the competence of any of the Authority and the private schools enjoy autonomy and no interference with such autonomy is permissible. It is further contended that no opportunity of hearing was afforded to the petitioner before passing the impugned order and therefore, the impugned order deserves to be set aside, inasmuch as, it is the wisdom of the concerned School to decide the colour of the Uniform and the order impugned could not have been passed as there are no powers to pass such orders under the Act of 2017 or Rules of 2020.

6. Per contra, the counsel for the State submits that the present petitions have been filed by the petitioners without availing efficacious alternative remedy under Section 11 of the Act of 2017. It is contended that there exist a State Committee, which is empowered to deal with the appeal preferred against the order of District Committee. In the present cases, since the orders have been passed by the District Committee, it is for the

petitioners to avail the remedy under Section 11 of the Act of 2017. It is further contended that the orders impugned themselves refer to opportunity of hearing to the petitioners. They were heard before passing the order and even they themselves have filed copies of notices issued to them and their replies are also there on record, therefore, it is incorrect to say that no opportunity of hearing was afforded to the petitioners. It is further contended that there is no compliance of section 4(1) as well as Rule 3 (1) of the Rules of 2020 by all the petitioners. None of the petitioners had uploaded information as per statutory requirement pertaining to audited accounts of preceding 3 years and accordingly, the orders impugned have been passed. It is contended that all the issues which have been agitated in these petitions, can be dealt with by the appellate Authority, therefore, no interference is required in these petitions.

7. No other point is argued or pressed by the counsel for the parties.

8. Heard submissions and perused the record.

9. Prima facie, the orders impugned reflect that before passing of the impugned orders, the notices were issued to the petitioners and their replies to show causes notices were also taken into consideration by the Authority in the impugned orders. As per section 11 of the Act of 2017, there exists statutory remedy of appeal against the order passed by the District Committee, therefore, all the contesting issues i.e. *effect of non compliance of Section 4(1) of the Act of 2017 and Rule 3(1) of the Rules of 2020; uploading/ non-uploading of information in the portal; the issue pertaining to Uniform being an issue covered within the definition of Section*

2(3) is a related issue and the orders impugned would amount to regulation of fee or fixation of fee, require consideration by the appellate Authority.

10. Therefore, in view of the efficacious alternative remedy, this Court is not inclined to entertain these petitions at this juncture.

11. The decisions so relied upon by the counsel for the petitioners are of no assistance to them, inasmuch as, prima facie impugned orders reveal that there is compliance of principles of natural justice in the present cases.

12. Resultantly, the petitions are dismissed in view of availability of alternative efficacious remedy under Section 11 of the Act of 2017. The petitioners are at liberty to take recourse to the aforesaid remedy.

(MANINDER S. BHATTI)
JUDGE

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