

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

**WP (C) No. 2531/2022
CM No. 6412/2022**

Dated: 14th of November, 2022.

Tyndale Biscoe School & Ors.

... Petitioner(s)

Through: -

Mr Sunil Sethi, Senior Advocate with
M/s Parimoksh Seth and Asif Ahmad, Advocates.

V/s

Union Territory of Jammu and Kashmir & Ors.

... Respondent(s)

Through: -

Mr D. C. Raina, Advocate General with
Mr Ilyas Nazir Laway, Government Advocate.

CORAM:

**Hon'ble the Chief Justice
Hon'ble Mr Justice Vinod Chatterji Koul, Judge**

(ORDER)

(Ali Mohammad Magrey-CJ):

01. The Petitioner-Schools are aggrieved of Order No. 14-FFRC of 2022 dated 2nd of November, 2022 issued by the Chairperson, Committee for Fixation and Regulation of Fee of Private Schools, J&K, Srinagar (for short 'the FFRC'), in terms whereof the FFRC has restrained all the school managements of the Private Schools from charging and collecting annual fee for the period November, 2022 to March, 2023.

02. Mr Sunil Sethi, the learned Senior Counsel appearing on behalf of the Petitioner-Schools, submitted that the aforesaid impugned Order issued by the FFRC is not only bad in law, but the same is also contrary to the mandate of Section 20E of the J&K School Education Act, 2002; Circular No. 1-Edu of 2020 dated 14th of May, 2020 issued by the

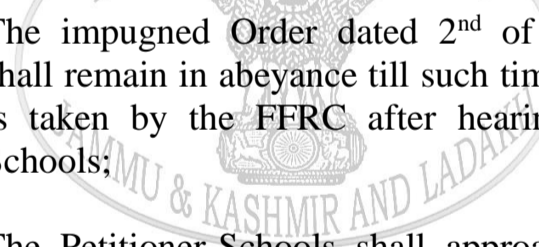
Government in the School Education Department; as well as Order No. 01-FFC of 2019 dated 28th of January, 2019 issued by the FFRC itself. It is pleaded that the Private Schools have been permitted to charge annual fee, which includes the annual depreciation of the investment made for setting up of the school concerned clubbed with repair and maintenance costs and all other one-time fee such as Examination fee, Computer fee, Sports fee, etc., wherever applicable and that mere change in the academic session by the Government does not, in any manner, disentitle the Petitioner-Schools to charge the annual fee. It is next contended by the learned Senior Counsel that, after being served with the Order dated 27th of October, 2022, the Tyndale Biscoe and Mallinson Society submitted a detailed clarification to the FFRC wherein it has been clarified that the Petitioner-Schools, in fact, have neither charged nor demanded any annual fee for the period November, 2021 to February, 2022 in reference to Order dated 26th of June, 2021 issued by the Respondent No.2. It is also contended that the FFRC was also informed that due to the Government orders implementing Uniform Academic Calendar, current session will be of seventeen (17) months but the Petitioner-Schools will only charge annual fee from students for five months *viz.* November, 2022 to March, 2023 on monthly and *pro-rata* basis as per the fee structure of the Petitioner-Schools already approved by none other than the FFRC itself. In this factual backdrop, it is contended that the impugned Order has been issued without hearing the Petitioner-Schools.

03. Admittedly, the Petitioner-Schools, for purpose of fixation and regulation of fee, are governed by the mandate of Order dated 13th of September, 2021 issued by the FFRC, which Order provides that the annual fee for the new students *viz.* fresh entrants for academic session 2021-22, after considering all relevant facts, the Supreme Court guidelines, statutory prescriptions and other relevant aspects governing the subject, is fixed @ Rs. 18,000/-; whilst for academic session 2022-23, the annual fee for new admissions *viz.* fresh entrants is fixed @ Rs. 19,000/-.

04. Be that as it may, after hearing the learned Senior Counsel for the Petitioner-Schools and on an overall analysis of the pleadings on record, we feel that the Order impugned has been issued by the FFRC without giving adequate opportunity of hearing to the Petitioner-Schools.

05. At this stage and while we were hearing and appreciating the submissions made by the learned Senior Counsel for the Petitioner-Schools, we also sought the valuable assistance of the learned Advocate General on the issue. Accordingly, Mr D. C. Raina, the learned Advocate General, submitted that in the event this Court comes to the conclusion that no hearing has been given to the Petitioner-Schools before issuance of the Order impugned, the proper course for the Court would be to remand the case back to the FFRC for fresh decision after hearing all concerned.

06. Given the above position and having regard to the fact that the Order impugned appears to have been issued by the FFRC without hearing the Petitioner-Schools, we, at this stage and without making any observation or recording any finding with regard to the merits of the claim of the Petitioner-Schools, are inclined to dispose of this Petition in the following manner:

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- a) The impugned Order dated 2nd of November, 2022 shall remain in abeyance till such time a fresh decision is taken by the FFRC after hearing the Petitioner-Schools;
 - b) The Petitioner-Schools shall approach the FFRC by Thursday, the 17th of November, 2022 and furnish supplementary material as may be available to them, if required, in support of their claim; and
 - c) The FFRC shall hear the Petitioner-Schools on Friday, the 18th of November, 2022 and pass fresh order(s) accordingly, which order(s) shall govern the claim of the Petitioner-Schools for purpose of charging or otherwise of the annual fee by the management of the Private Schools for the period November, 2022 to March, 2023.

07. Writ Petition **disposed** of in the above terms, along with the connected CM.

(Vinod Chatterji Koul)
Judge

(Ali Mohammad Magrey)
Chief Justice

SRINAGAR

November 14th, 2022

"TAHIR"

