

**THE HIGH COURT OF MADHYA PRADESH : JABALPUR**  
**(Division Bench)**

*Heard through Video Conferencing*

**Writ Petition No.9293/2020**

Nagrik Upbhokta Margdarshak Manch  
and another ... Petitioners

versus

State of Madhya Pradesh and others ... Respondents

**Writ Petition No.8458/2020**

Amit Sharma ... Petitioner

versus

State of Madhya Pradesh and others ... Respondents

**Writ Petition No.8463/2020**

My Parent Association ... Petitioner

versus

State of Madhya Pradesh and others ... Respondents

**Writ Petition No.8595/2020**

Piyush Pahadiya ... Petitioner

versus

State of Madhya Pradesh and others ... Respondents

**Writ Petition No.8025/2020**

Association Of Unaided CBSE Schools  
Through Mr. Anil Dhupar ... Petitioner

versus

State of Madhya Pradesh and others ... Respondents

<b><u>Writ Petition No.9847/2020</u></b>	
Society of Private Schools M.P.	... Petitioner
versus	
State of Madhya Pradesh and others	... Respondents
<b><u>Writ Petition No.10050/2020</u></b>	
Walk And Clean Society Represented By Its Secretary Shri Arvind Dubey	... Petitioner
versus	
State of Madhya Pradesh and others	... Respondents
<b><u>Writ Petition No.11283/2020</u></b>	
Sachin Maherswari and others	... Petitioners
versus	
State of Madhya Pradesh and others	... Respondents
<b><u>Writ Petition No.12108/2020</u></b>	
Shilpa Jain and another	... Petitioners
versus	
State of Madhya Pradesh and others	... Respondents
<b><u>Writ Petition No.12296/2020</u></b>	
Guru Govind Sing Educational Society Through Its Secretary	... Petitioner
versus	
State of Madhya Pradesh and others	... Respondents

**Appearance:**

Shri Piyush Mathur, Senior Counsel, Shri Gaurav Chhabra, Shri Dinesh Upadhyaya, Shri Ajay Gupta, Shri Somit Raizada, Shri Syed Ashhar Ali Warsi, Shri Siddharth Gupta, Shri Atul Kumar Jain, Shri

Abhinav Malhotra and Shri Pankaj Dubey, learned counsel for the petitioners in the respective petitions.

Shri Swapnil Ganguly, learned Deputy Advocate General for the respondents/State and its functionaries.

Shri Naman Nagrath, learned Senior Counsel with Shri Anvesh Shrivastava and Shri Akhil Godha, Shri Anurag Maheshwari, Shri Gurdeep Singh Wadhwa, Shri Siddharth Gupta, learned counsel for the respective respondents.

Shri Dinesh Upadhyay, learned counsel for intervenor in W.P. No.8025/2020.

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**CORAM :**

Hon'ble Shri Justice Sanjay Yadav, Acting Chief Justice

Hon'ble Shri Justice Rajeev Kumar Dubey, Judge

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Date of decision : **04.11.2020**

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**ORDER**

**Per Sanjay Yadav, Acting Chief Justice :-**

These writ petitions at the instance of various stakeholders, viz., the Management, Parents and Teachers/Employees of unaided CBSE Schools, emanate from the notifications dated 17.04.2020, 24.04.2020 and 16.05.2020 issued by the Central Board of Secondary Education and the School Education Department, State of Madhya Pradesh, regarding payment of fee by parents in Private

Unaided Schools during lock-down period in the wake of COVID-19 Pandemic.

2. That, representations were received by the Board regarding payment of school fees to private unaided schools affiliated to the Board and also regarding teachers' salaries in these schools ranging from inability of parents to pay lump-sum fees on quarterly/biannually/annually basis, to fees hikes, and also regarding stopping of teachers salaries.

3. The Board, relying on Clauses 7.2 and 7.3 of Affiliation Bye-laws, which respectively provide for that admission fee and fee charged under any other head are to be charged only as per the regulations of the appropriate Govt. and that fee shall be charged under the heads prescribed by the Department of Education of State/Union Territories and that the CBSE Affiliation Bye-laws also empower the State Education Department of concerned States/UTs to decide the manner in which fee can be collected, requested the State Government to examine the issue of lump-sum payment of school fees and teachers salaries sensitively and holistically considering the interest of all concerned stakeholders. The States/UTs were requested to issue suitable instructions on

periodicity of payment of school fees and payment of salaries to the teaching and non-teaching staff to be applicable during the period of the pandemic.

4. Consequent thereof, the State of Madhya Pradesh through its School Education Department issued following instructions vide Instruction No.F-50-4/2020/20-2 dated 24.04.2020 which is in the following terms :

मध्यप्रदेश शासन  
स्कूल शिक्षा विभाग  
मंत्रालय

क्रमांक एफ 50-4 / 2020 / 20-2  
प्रति,

भोपाल, दिनांक 24 / 04 / 2020

समस्त जिला कलेक्टर,  
समस्त जिला शिक्षा अधिकारी,  
मध्यप्रदेश।

विषय :- लॉकडाउन अवधि में पालकों द्वारा गैर अनुदान प्राप्त अशासकीय विद्यालयों की फीस के भुगतान के संबंध में।

संदर्भ :- केन्द्रीय माध्यमिक शिक्षा बोर्ड का पत्र क्रमांक CBSE/SECYAFF/2020 Dated 17-04- 2020.

विषयांतर्गत वर्तमान लॉकडाउन के परिप्रेक्ष्य में विभिन्न हितग्राहियों द्वारा गैर अनुदान प्राप्त अशासकीय विद्यालयों की फीस के भुगतान तथा इन विद्यालयों के शिक्षकों आदि के वेतन भुगतान के संबंध में केन्द्रीय माध्यमिक शिक्षा बोर्ड (CBSE) को प्रस्तुत किए गए ज्ञापनों के संदर्भ में केन्द्रीय माध्यमिक शिक्षा बोर्ड (CBSE) द्वारा जारी संदर्भित पत्र के अनुक्रम में निम्न निर्देश जारी किए जाते हैं :-

1. ऐसे पालकगण जो परिस्थितिवश विगत शैक्षणिक सत्र 2019-20 की बकाया शुल्क जमा नहीं कर पायें है, वे उक्त शुल्क दिनांक 30.06.2020 तक जमा कर सकेंगे। इस हेतु उन पर कोई विलम्ब शुल्क प्रभारित नहीं किया जायेगा।

2. वर्तमान शैक्षणिक सत्र 2020–21 के लिए आगामी आदेश तक अशासकीय विद्यालयों द्वारा कोई शुल्क वृद्धि नहीं की जा सकेगी। इसके अलावा पालकों को फीस की एकमुश्त अदायगी हेतु बाध्य नहीं किया जायेगा। निजी विद्यालय द्वारा पालकों की सुविधानुसार मासिक रूप से अथवा न्यूनतम चार किश्तों में फीस ली जा सकेगी। फीस जमा न किए जाने के कारण किसी छात्र/छात्रा का नाम विद्यालय से नहीं काटा जाएगा।
3. वर्तमान परिस्थितियों के दृष्टिगत अभिभावकों की आर्थिक कठिनाईयों के कारण यदि उनके द्वारा आपदा अवधि में शुल्क को स्थगित किए जाने का अनुरोध किया जाता है तो निजी विद्यालय इस पर सकारात्मक रूप से विचार करेंगे एवं फीस स्थगित किये जाने की स्थिति में उक्त शुल्क को आगामी माहों में किश्तों के आधार पर समायोजित किया जा सकेगा।
4. जिन अशासकीय विद्यालयों द्वारा वर्तमान में ऑनलाईन अध्यापन गतिविधियां प्रारंभ की गई हैं अथवा यदि वे ऐसी गतिविधियां प्रारंभ करना चाहें तो वे ऐसी गतिविधियां जारी रख सकेंगे/प्रारंभ कर सकेंगे, तथापि इस हेतु कोई अतिरिक्त फीस प्रभारित नहीं की जायेगी।
5. विद्यालय में कार्यरत शैक्षणिक तथा गैर शैक्षणिक स्टाफ को नियमित रूप से वेतन का भुगतान किया जायेगा।
6. किसी भी स्थिति में संबंधित बोर्ड की पुस्तकों के अतिरिक्त किसी अन्य पुस्तकों के क्रय हेतु अभिभावकों/पालकों को बाध्य नहीं किया जायेगा।

उपर्युक्तानुसार निर्देश प्रदेश के समस्त सीबीएसई, आईसीईई, मध्यप्रदेश माध्यमिक शिक्षा मण्डल तथा अन्य समस्त बोर्ड से सम्बद्ध गैर अनुदान प्राप्त अशासकीय विद्यालयों पर समान रूप से लागू होंगे। अशासकीय विद्यालयों द्वारा उपर्युक्त निर्देशों का पालन न करने की स्थिति में ऐसे विद्यालयों के विरुद्ध उन पर लागू मान्यता नियमों के तहत कार्यवाही प्रस्तावित की जाये।

(के.के. द्विवेदी)  
उप सचिव  
मध्यप्रदेश शासन  
स्कूल शिक्षा विभाग

5. It was further ordered vide Letter No.F-50-4/2020/20-3 dated 16.05.2020 that :

मध्यप्रदेश शासन  
स्कूल शिक्षा विभाग  
मंत्रालय, वल्लभ भवन, भोपाल-462003

क्रमांक एफ 50-4 / 2020 / 20-3

भोपाल, दिनांक 16 मई, 2020

प्रति,

समस्त जिला कलेक्टर,  
समस्त जिला शिक्षा अधिकारी,  
मध्यप्रदेश।

विषय :- लॉकडाउन अवधि में पालकों द्वारा गैर अनुदान प्राप्त अशासकीय विद्यालयों की फीस के भुगतान के संबंध में।

संदर्भ :- विभागीय समसंख्यक पत्र दिनांक 24.04.2020.

विषयांतर्गत विभागीय समसंख्यक संदर्भित पत्र द्वारा वर्तमान लॉकडाउन के परिप्रेक्ष्य में गैर अनुदान प्राप्त अशासकीय विद्यालयों की फीस के भुगतान तथा इन विद्यालयों के शिक्षकों आदि के वेतन भुगतान के संबंध में केन्द्रीय माध्यमिक शिक्षा बोर्ड (CBSE) द्वारा जारी पत्र दिनांक 17.04.2020 के अनुक्रम में निर्देश जारी किए गए हैं। उक्त अनुक्रम में आगे निर्देशित किया जाता है कि "वर्तमान शैक्षणिक सत्र 2020-21 के लिए अशासकीय विद्यालयों द्वारा लॉकडाउन अवधि में मात्र शिक्षण शुल्क (Tuition Fee) प्रभारित किया जा सकेगा एवं इसके अतिरिक्त अन्य किसी भी प्रकार का शुल्क नहीं लिया जाएगा।"

यहाँ यह स्पष्ट किया जाता है कि विभागीय समसंख्यक पत्र दिनांक 24.04.2020 द्वारा पूर्व में जारी समस्त निर्देश यथावत् लागू होंगे।

(के.के. द्विवेदी)  
उप सचिव  
मध्यप्रदेश शासन  
स्कूल शिक्षा विभाग

6. These orders evoked response from the Association of Unaided CBSE Schools stating therein that on the basis of these Circulars, the District Magistrates/Collectors have started issuing orders to these institutions that if complete salary to the teaching and non-teaching staff is not regularly paid, the action shall be initiated against them and affiliation would be cancelled. It was also stated that since the institutions have been directed not to stuck off the names of the students in the event of non deposit of amount; therefore, the parents are not depositing the fees. It was further said that since the management has to bear the establishment expenditure such as salaries of teaching and non-teaching staff which are paid from the fees which are charged under the heads of tuition fee, transport fee, mess fee, sports fee and the annual charges etc. Accordingly, it was stated that in the event of non-receiving the fees under various heads, the institutions will not pay salaries to teaching and non-teaching staff, will be compelled to lay off the staff engaged in transport, mess and other support staff, will not be able to pay the installments on loans and will ultimately be compelled to close the institution.

7. With these contentions, the Association filed Writ Petition No.8025/2020 before Indore Bench of this High Court, wherein, learned Single Judge vide order dated 15.06.2020 stayed the operation of orders dated 24.04.2020 and 16.05.2020 with the rider that "... the petitioner/Institution shall not be charging any sum towards unincurred expenses during the period of lockdown (till the schools are closed) such as transportation and mess."

8. Spate of writ petitions came to be filed thereafter by the stakeholders, viz., the Parents Association and the Teaching and Non-Teaching Staff Association at the Principal Seat and Benches of this High Court; whereon, taking note of the fact that contradictory orders have been passed by Single Bench in Writ Petition No.8025/2020 by the Indore Bench and in Writ Petition No.8458/2020 at Principal Seat, an order was passed on 07.07.2020 by the Division Bench, directing for transfer of petitions from the Benches to the Principal Seat for analogous hearing by the Division Bench.

9. After consolidation of all the writ petitions by order dated 01.09.2020, the interim order dated 15.06.2020 was modified in the following terms:

“The interim order passed earlier is modified to the extent that the Schools shall be entitled to recover the amount of ‘Tuition Fee’ only from the students. In other words, the Society of Private Schools/Association of Unaided CBSE Schools are entitled to charge/recover Tuition Fee only as prescribed in the Prospectus. It is further clarified that the term 'Tuition Fee' shall have the connotation i.e. it shall be the amount which was being charged by the Schools prior to the Lockdown declared on 24.03.2020, under the Disaster Management Act, 2005. The students shall be liable to pay the ‘Tuition Fee’ only for the time being.”

**10.** That, on 23.09.2020, respective stakeholders were given time to file proposals, in wake of the observations by the Court that in present fact situation, whereunder not only the education system but the entire socio-economic system suffered/suffering the set-back because of the lockdown due to pandemic, stakeholders were required to furnish equitable proposals as to respective claims; thereby, declining to Rule on adversarial aspect.

**11.** Proposals are received from the stakeholders. Having gone through these proposals and the submissions made on behalf of respective parties; in order to strike a balance amongst the stakeholders which include students/parents, teachers and management/institution, we direct that:

(i) the unaided private institution shall ensure that the students of all ranks are not deprived of the quality education/learning by adopting digital/online education platform evolved by the Government of India under caption “Pragyata” (Guidelines for Digital Education, MHRD dated 14.07.2020) by adopting synchronous<sup>1</sup> or asynchronous<sup>2</sup> method of online learning and teaching.

(ii) Though the Schools are presently closed and there are no extra-curricular activities; however, the expenses on teaching and non-teaching staff/employee are to be meted out and since these private unaided educational institutions do not receive funds from the Government and are entirely dependent on fees to meet out the salaries of teaching and non-teaching staff and other daily expenses, the students/parents shall pay the Tuition Fee as per order dated 01.09.2020 which shall not be inclusive of Library Fee, Reading Room Fee, Games Fee, Laboratory Fee, Computer Fee, Practical Fee, Examination Fee (subject to if the examinations are not held) and Fee for programs organized on occasions such as National Festivals, Annual Function, Sporting Events, Development Fees.

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<sup>1</sup> Synchronous: This is real-time teaching and learning that can happen collaboratively and at the same time with a group of online learners or even individually, and usually a teacher, or some method of instant feedback; examples of synchronous learning are online teaching through video conference (two way video, one way video, two way audio), audio conference (two way audio) using satellite or telecommunication facilities.

<sup>2</sup> Asynchronous: This is anytime, anywhere learning but not connected on real time, for example, emails, SMS, MMS, surfing e-content on DIKSHA, listening to radio, podcasts, watching TV channels, etc.

(iii) Though there exists District and State Committee for regulating fee and related issues, constituted under sub-section (1) of Section 7 and sub-section (1) of Section 11 of the Madhya Pradesh Niji Vidyalaya (Fees Tatha Sambandhit Vishayon Ka Viniyaman) Adhiniyam, 2017 (for short, 'Adhiniyam, 2017'), to regulate the increment in fee. However, taking into consideration the fact that the entire physical activities in the schools are at stand still and the teaching are imparted through virtual mode; therefore, we direct that there shall not be the increment in fee for Session 2020-21. Subject to that, when the situation normalizes i.e. when the Government declares that the Pandemic is over and the Schools return to normal physical functions, the District Committee shall within thirty days from such declaration take decision as to increment of fees for the remaining period of academic session 2020-21 as per the stipulation contained in sub-section (2) of Section 5 of the Adhiniyam, 2017.

(iv) Salaries of teaching and non-teaching staff shall be regularly paid on the due date. In case if any reduced salary is paid, the reduction shall not be more than 20% and arrears towards reduced amount shall be paid with the restoration of normalcy in six monthly equal installments.

**12.** These directions, as apparent, are issued under the unprecedented situation and will be prevalent till pandemic era and are not to be treated as precedent in future with the restoration of normalcy.

**13.** With these directions, the petitions stand **disposed of** finally.

No costs.

**(Sanjay Yadav)**  
**Acting Chief Justice**

**(Rajeev Kumar Dubey)**  
**Judge**

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