

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.07.2020

CORAM:

THE HONOURABLE **Mr. JUSTICE N. ANAND VENKATESH**

W.P.Nos.9295,9301,9331,9092,8825,8789,8829,8492,8490,8491,8732,
8733, 8836,8840,8841,8850,9017, 8951,9144,9148,9152,
9049,9052,9055,9070,9071,9093,9067,9073,9089,9091,9063,9066 &
9274 of 2020

N. ANAND VENKATESH, J.,

[OPERATIVE PORTION OF THE ORDER]

This Court has carefully considered the submissions made on either side and the materials available on record.

2.The Covid 2019 Pandemic has posed huge challenges to the entire human kind all over the world. All the Governments are grappling to handle the situation and every day new challenges stares at the face of the State and Central Government. In the present situation, many decisions which seems to be right at the time when it is taken goes completely wrong at a later point of time. This is due to the fact that

there is no clear visibility as to when the normalcy will be restored. The continued lock down/phased opening up of operations, has virtually stalled the economic progress. The savings and contingency funds are dwindling every day due to the non availability of income. The economic breakdown has virtually come to a stage where the livelihood of many persons is under challenge. We are facing a very extreme situation and at this point of time, the courts must be very careful while interfering with the administrative decisions taken by the Government.

3. The Government order under challenge had virtually put a lid on the institutions from collecting tuition fees and therefore aggrieved by the same, the unaided institutions have filed the writ petitions challenging the G.O. This Court took into consideration the challenging situation and wanted to strike a balance by taking into consideration the interest of all stakeholders. Therefore, this Court requested the State Government to take into consideration the grievance expressed by all the stakeholders and come up with an interim arrangement. The State Government has managed to come up with an interim arrangement to balance the interest of all concerned and the suggestions have been made at para 8 of the affidavit and the same has been extracted supra.

4. This Court is not in a position to decide all the concerns expressed by the petitioners and this Court has to necessarily prioritize the issues which requires immediate attention. The immediate requirement for the present is that the institutions must kick start their functioning. In order to commence the said process, these unaided institutions require some flow of funds. Admittedly, all these institutions are unaided and they depend upon only fees collected from the students. This money is required to pay the salary of the teachers and non teaching staff without whom the institutions will not be able to function. The other end of the spectrum is that many of the parents are also in the receiving end either because of no income or with a reduced income. Consequently, their ability to pay the fees for their children is also under question. The education of the students cannot be put on a hold endlessly and they have to be engaged in studies. The respective managements have managed to pay the salaries to the teachers and the non teaching staffs from their available reserve funds till date. This process cannot go on endlessly. This deadly virus is not going to leave us by fixing any date as an outer limit and it is not known for how many more months we are going to face the present situation.

5. The affidavit of the 3rd respondent has suggested that 75% of the tuition fee for the academic year 2020-2021 can be collected in three instalments. The 2nd instalment of 25% is made payable after the opening of the the institutions. This Court does not find any visibility of the institutions reopening and conducting physical classes in the near future. Therefore, this Court finds force in the submissions made by the counsel representing the petitioners that the initial percentage of the payment of tuition fee must be increased.

6. Taking into consideration, the present situation and in order to find an interim solution to clear the logjam and in order to balance the interest of all the stakeholders, the following directions are issued to the respondents:

[a] This interim order passed by this Court will apply to all unaided private institutions across the State of Tamil Nadu.

[b] The unaided private institutions shall collect 40% of the tuition fees as an advance fees based on the tuition fees collected during the academic year 2019-2020. This advance fee shall be paid by the students on or before 31.08.2020.

[c] The unaided private institutions shall also collect the arrears of fees payable for the academic year 2019-2020 and this arrears fees shall be paid on or before 30.09.2020.

[d] If any student has already paid the entire fees including arrears, the same shall not be a ground to claim for refund of the fees.

[e] The balance of 35% of the fees based on the tuition fees collected for the academic year 2019-2020, shall be collected within a period of two months from the date on which the institution is reopened and physical classes commences.

[f] The fee Committee shall immediately start the process of the determining the tuition fees for the respective institutions and make an attempt to complete the process within a period of eight months starting from August 2020 onwards.

[g] The payment of balance if any, shall be determined after the final decision of the fee Committee.

[h] The directions given to the fee Committee will not in any way prejudice to the rights of the institutions which have already challenged the jurisdiction of the determination of the fees and which are pending before this Court and the Hon'ble Supreme Court.

[i] The teaching and non teaching staff shall not insist for any increment in salary and/or DA, until the restoration of normalcy and further orders of this Court.

[j] The State Government is directed to immediately take into consideration the request made by the institutions to supply text books and note books to the students either free of cost or at some nominal rates. For this purpose, the State Government can also get the particulars from the respective Schools regarding the students who are in dire straits and it can also be confined to those students. This direction is issued purely in the interest of the students who should not be deprived of education due to their inability to purchase text books and note books. This Court is confident that the State Government will come up with a positive response in this regard.

[k] The above directions are issued without prejudice to the rights of the petitioners to argue the writ petitions on all the grounds raised by them in their respective writ petitions.

Post all these cases on **05.10.2020**.

17.07.2020

Index: Yes / No
Internet : Yes /No
KP

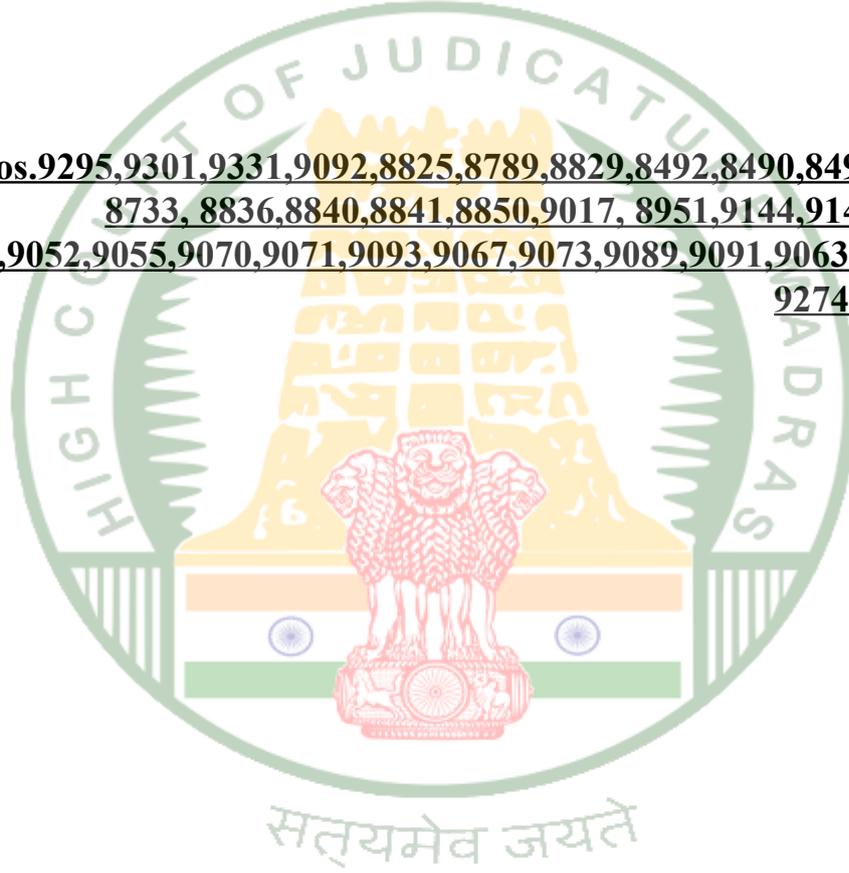


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