

Serial Nos.1-3.
September 8, 2020.
SG

WP 5890(W) of 2020
with
CAN 4006 of 2020
with
CAN 5108 of 2020
with
CAN 5111 of 2020
with
CAN 5149 of 2020
with
CAN 5150 of 2020
with
WP 5378(W) of 2020
With
CAN 3697 of 2020
With
CAN 3698 of 2020
with
WP 5872(W) of 2020
with
CAN 3956 of 2020
(Via Video Conference)

Vineet Ruia
Vs.

State of West Bengal & Ors.

Ms. Priyanka Agarwal
..for the Petitioner in WPA 5890 of 2020

Mr Pratyush Patwari (in person)
..for the Petitioner in WPA 5378 of 2020

Mr. Kishore Datta
Mr. Sayan Sinha
..for the State.

Mr. Y. J. Dastoor
Mr. Siddhartha Lahiri
..for the Union of India.

Mr. Anirban Ray
Mr. Debabrata Das
Mr. Partha Banerjee
..for the Respondent No.8.

Mr. Aniruddha Mitra
..for the Respondent No.9.

Mr. Sabyasachi Choudhury
Mr. Rajarshi Dutta
Mr. VVV Sastry
Mr. Tridib Bose
Ms. S. Tewary
..for Ashok Hall Group of Schools.

Mr. Satadeep Bhattacharya
Mr. Saptarshi Datta

Mr. Abhijit Chakraborty
..for Southcity International School.

Mr. Anirban Ray
Mr. Arunabha Sarkar
..for B D M International School.

Mr. Jayanta Sengupta
Mr. Debabrata Das
Mr. Partha Banerjee
..for Indus Valley World School and
B D Memorial School.

Mr. Debashis Saha
Ms. Dipika Banu
Mr. S. Roy
..for Paramita Memorial School, Salt
Lake Point School and National
English School.

Mr. Debkumar Sen
Mr. Buddhadeb Das

..for the applicant in CAN 5108 of 2020
and CAN 5111 of 2020.

Mr. Vipul Kundalia
Mr. Kushogra Shah
..for Delhi Public School, Newtown.

Mr. Jishnu Chowdhury
Mr. Aditya Garodia
..for DPS, Megacity & DPS, Howrah.

Mr. Subir Pal
..for St. Paul's Academy, Burdwan.

Mr. Pijush Biswas
..for La Martinere & CNI Group.

Mr. Aniruddha Chatterjee
Mr. Kushal Chatterjee
Mr. Pintu Ghosh
..for W.B. Contract Carriage Owners
& Operators Association.

Mr Bhaskar Prasad
Mr Aniket Mitra
Mr Pravashar Baidya
...for Calcutta Public School, Baguiati.

Mr Ashim Kumar Roy
Mr Ashoke Kumar Roy
...for Bharatiya Vidya Bhavan, Kolkata

Mr Biswaroop Bhattacharya
Mr Rajshree Kajaria
Mr Uttam Sharma
... for MC Kejriwal Vidyapith

Mr Sandip Kumar De
 Mr Abhijit Sarkar
 ... for Calcutta Girls High School.

Mr. Deb Kumar Sen
 Mr. Buddhadeb Das
 ..for B D M International School
 Guardians' Forum.

Mr Debjit Mukherjee
 Ms Susmita Chatterjee
 ... for St. Jossep College.

Mr Ranjan Bachawat
 Mr Sanjay Ginodia
 Mr S. Ginodia
 Mr Satyaki Mukherjee
 ...for Modern High School

Mr Arindam Guha
 Mr S. Sengupta
 Mr Rich Goyal
 ...for Purushottam Bhagchandika
 Academy

Mr Soumya Majumdar
 Mr Debashis Banerjee
 Mr Kartik Kumar Roy
 ... for the applicants in
 CAN 4867 & 4869 of 2020.

Mr S. N. Mukherjee
 ...for Heritage School

Mr Bikash Ranjan Bhattacharya
 ...for some of the parents

Pursuant to the order dated August 18, 2020, almost all the schools have furnished financial particulars, in some form or the other, with the committee appointed by this court.

A preliminary report has been filed by the two-member committee. Copies of such report should be mailed to Advocate for the petitioners and to as many of those participants at the hearing as may be practicable, particularly to the offices of learned Advocate General and learned Additional Solicitor General. Advocate

for the petitioners should ensure that all schools which are likely to be affected by the orders in these proceedings receive copies of the report. Some schools, DPS, Siliguri, for instance, have complained that copies of the writ petitions or the supplementary affidavits filed by the petitioners have not been served on them. Such service must be completed by September 10, 2020.

A number of schools controlled by the Church of North India had applied before the Supreme Court by way of a special leave petition against the previous orders passed on these petitions. By an order dated September 3, 2020, the matters have been disposed of by the Supreme Court by keeping the order dated August 18, 2020 in abeyance. Such order of abeyance would apply only to the applicants before the Supreme Court. However, despite the order of September 3, 2020, no application for recalling the previous orders or for modification thereof has been filed. Advocate for the CNI schools seeks time till September 14, 2020 to file the relevant applications. Copies of such applications must be served on Advocate for both sets of petitioners before the writ petitions are taken up on September 14, 2020.

The preliminary report filed by the two-member committee indicates several fallacies in the accounts submitted by the schools. In some cases, monthly breakup of the accounts have not been furnished. The committee has also

expressed reservations regarding certain heads as indicated in the preliminary report.

The petitioners in the first matter should deposit a sum of Rs.60,000/- with the Registrar-General before the matter is taken up next on September 14, 2020. The petitioners in the two other matters are directed to deposit a sum of Rs.10,000/- each. Such amounts are necessary to meet the expenses, including for the engagement of secretarial staff and chartered accountants by the two-member committee and the honorarium that may be ultimately paid to the members of the committee.

Several of the appearing schools submit that certain reductions of fees have already been effected and the benefit passed on to students or the parents. It also appears that there can be no general order that can be passed for a reduction across the board. There are some schools which have paid all the salaries of the staff and teachers and have not terminated the services of any employee. The fixed costs of such schools will be much higher than the fixed costs of those schools which have resorted to salary cuts of employees and the disengagement of contractual employees. In short, the matter as to the quantum of reduction that ought to be allowed has to be gone into on a case-to-case basis.

There are 145 schools involved here. It may not be physically possible to go into the accounts of all the 145 schools and to make a decision in every individual case upon affording

opportunities to the various parties to be heard. As a consequence, some mechanism has to be devised where the schools should be encouraged to offer a quantum of concession, particularly since the closure of the schools over the last six months or so has resulted in reduced expenses, though new expenses may have been incurred for starting online classes and conducting online examinations.

It is proposed that each of the 145 schools will be requested to set up a committee with the head of each school and three senior teachers and three members of the parents of the students of such school to voluntarily suggest the extent of reduction that every school would be able to bear. It is heartening to note that almost without exception the schools which have participated at today's hearing have said that they have entertained, on a case-to-case basis, appeals by the parents of the students who have been financially hit or have lost their jobs or have been unable to pay the fees whether in full or at all.

It will be open to all the schools to consider such instances on a case-to-case basis without there being any generic direction in such regard. However, as far as the extent of reduction allowable, there have to be voluntary suggestions made by the individual committees of each school which are proposed to be set up by the order that may be passed when the matter is taken up next.

For the moment, all schools which have filed the statements with the two-member committee may file the original copies of such statements in a sealed cover in this court. It is not necessary for all and sundry to peer into the individual accounts and details pertaining to every school. The sealed statements will be produced before the court and may be opened as and when necessary.

Certain views have been expressed in the preliminary report furnished by the two-member committee pertaining to bus charges, electricity charges and the like. The various areas referred to in the report should be addressed by the individual schools to justify the amounts claimed to have been expended under the various heads.

For the months of August and September, 2020, fees to the extent of 80 per cent of the amounts demanded by the schools should be paid by September 15, 2020 and all 145 schools involved in the present proceedings will make it possible for fees to such extent to be deposited. In the event such fees are deposited, online classes should be made available to the students irrespective of whether such facilities had been disrupted earlier. If there are any arrears in respect of the previous periods, the students and parents are encouraged to make good the deposit within September 15, 2020 so that the schools are able to meet their financial obligations.

It is recorded that all schools may obtain copies of the petitions and other pleadings (except the financial statements furnished by the other schools) by making a request at the email-ID of the petitioners indicated in the petitions. The preliminary report of the two-member committee may also be obtained by such process.

The papers pertaining to this matter will be kept in the custody of Mr Suvayan Ghosh, Assistant Court Officer and no person will have access to the papers without the permission of the Bench.

It is hoped that the parents desist from carrying out any agitation at the school gates, particularly since the matter is being considered by the court. Any report of further agitation at the school gates may be reported by the relevant schools for appropriate police action.

The matter will appear on September 14, 2020 as directed above for further orders.

(Sanjib Banerjee, J.)

(Moushumi Bhattacharya, J.)