2025 INSC 925

Non-Reportable

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Civil Appeal No. of 2025
(@Special Leave Petition (Civil) No.8544 of 2022)

Apeejay School

...Appellant

Versus

Dhriti Duggal & Anr.

...Respondents

With

Civil Appeal No. of 2025
(@Special Leave Petition (Civil) No.8542 of 2022)

And

Civil Appeal No. of 2025
(@Special Leave Petition (Civil) No.13848-13903 of 2023)

J U D G M E N T

K. VINOD CHANDRAN, J.

Leave granted.

2. The appellant is an unaided private school which filed suits for recovery of money, against the students and their parents, which recovery was of the fee hike notified to the parents and their wards, which the parents failed to remit.

The suits were decreed by the trial court and in the appeals filed by the defendants, minor modifications were made to the decretal amount and the interest levied, which was reduced from 12% to 6%. The trial court directed the recovery subject to the outcome of the decision of the Fee and Fund Regulatory Committee (hereinafter referred to as "FFRC") established under the Haryana School Education Act, 1995[1] and Haryana School Education Rules, 2003[2]; which body was entrusted to go into the reasonableness and justification of the hike in fees.

3. In appeal, the Appellate Court, while affirming the judgment and decree, directed refund of the entire amounts if the FFRC finds in favour of the defendant students. The plaintiff school filed a Review Petition before the Appellate Court pointing out that, if at all, the FFRC holds in favour of the defendant students, the refund can be only to the extent, the FFRC interferes with the fee hike. The Review Petition was dismissed against which thirty-one Second Appeals

[1] "the Act"
[2] "the Rules"

were filed by the school. Twenty-Seven, Second Appeals were filed by the parents against the Appellate Order affirming the judgment and decree of the trial court. The High Court of Punjab and Haryana, interfered with the concurrent findings on the ground that the rules provided an alternate remedy, which read with Section 22 of the Act, specifically ousted the jurisdiction of the civil courts in fee hike matters. The Special Leave Petitions are filed against the Order of the High Court in which we have granted leave.

4. The facts are identical, and we need only to refer to that arising from Civil Appeal @ SLP(C) No. 8544 of 2022. The parties are referred to as per their status in the suit. It is admitted that none raised a dispute insofar as the defendant students having studied in the school for the entire period for which the suit for recovery of money was filed. It is admitted by the plaintiff that till 2008-09, the students had paid the fees as notified by the school. It was the hike notified by the school in the academic year 2009-10, which led to the dispute raised on the allegation of unreasonable and excessive fees having been charged. The defendant-

parents continued to pay the school fees as notified earlier, minus the hike and the school also permitted the students to continue their studies.

5. The Government had also issued a notification restricting the fee hike which was successfully challenged in a Writ Petition. The Judgment having been delivered in the year 2011, an appeal was filed by the State, which was withdrawn in 2014, acceding to the directions in the impugned judgment. Thereafter, the school filed the above suits against the defendants; the students and their parents, the trajectory of which litigation we have already noticed.

6. Learned Senior Counsel Sh. H. L. Tiku appearing for the appellant pointed out that the fee hike was notified to the students and there was never a complaint raised before the educational authorities. The notification of the Government restricting the hike to 20% was successfully challenged by the school and within the limitation period, after the disposal of the Writ Petition and the LPA. The rules were amended introducing a remedy to the students/parents who alleged excessive fee hike in any school, by constituting a

Committee constituted under the newly incorporated provisions, in the year 2014. Earlier also, there was a Committee appointed by the High Court to look into such complaints before which also no grievance was moved by the students/parents. There is no ouster of jurisdiction as was found by the High Court especially since the remedy provided, even under the newly incorporated provisions in the year 2014 was to the students or their parents to approach the FFRC to ventilate their grievance of unreasonable and excessive fee hike. Though appeals were provided against the orders of the fee hike, there was no remedy available to the school as such, to enforce a reasonable hike in fees, which the students/parents were obliged to make good for the educational and other facilities provided by the school. There is hence no express or implied ouster of the civil court jurisdiction and even Section 22 of the Act provides only for the ouster of jurisdiction in respect of any matter in relation to which the Government or its officers are conferred with the power to adjudicate. Prior to the incorporation of the provision constituting the FFRC

and even after that, there was no remedy available to the school to recover the reasonable hike in fees. There is no express or implied ouster of jurisdiction of the civil court as held in ***Dhulabhai v. State of M.P.***[3].

7. Mr. Santosh Kumar Tripathi, learned Senior Counsel appearing for the respondents, before us and in the written submission asserts that though the violation of Rule 158; that is the absence of a proper notification of the fee hike was raised before the civil court, in defence of the prayer for recovery of money, the civil court rubbished it relying on Section 22 of the Act. The Ld. Senior Counsel also contended that at least with respect to the earlier academic year, the suits are clearly barred on the ground of limitation.

8. As we noticed, the regulation of fees, even in unaided schools was agitated before the High Court of Punjab and Haryana in three Writ Petitions which are referred to in the impugned judgment. Admittedly, when the fees were hiked in the academic year 2009-10, the Government came out with a notification putting a cap on the increase in tuition

[3] 1968 SCC OnLine SC 40

fees, at 20% in every successive academic year. This was challenged by the Association of Schools by ***CWP No. 11223 of 2009, Haryana Progressive Schools Conference (Regd.) v. State of Haryana & Others***. A Single Judge by order dated 27.04.2011 struck down the impugned order putting a cap of 20% on the fee hike in the successive academic years, as not having been sanctioned by the statute. However, the learned Single Judge observed that if the Director of School Education finds, any resort to profiteering, increase of fees resulting in commercialisation or charging of capitation fee, then necessarily interference could be caused. It was also found that the educational authorities had the right to require the institutions to furnish yearly returns in Form IV; which returns were also found to enable the Director to look into, for the purpose of ensuring that no profiteering commercialisation or charging of capitation fees are resorted to by the institutions. The Writ Petitions were disposed of in 2011.

9. The order of the learned Single Judge was challenged by the State of Haryana in *LPA No. 721 of 2012* wherein the

State, based on the liberty reserved to the Director of School Education agreed for the disposal of the appeals on the understanding that the needful would be done to examine the issue of fee hike, as per the decision of a Division Bench of Punjab and Haryana High Court in ***CWP No. 20545 of 2009, Anti-Corruption and Crime Investigation Cell vs. State of Punjab*** decided on 09.04.2013.

10. In the cited decision considering the raging controversy regarding propriety of hike in fees made by educational institutions, the Division Bench appointed three committees, one each for the States of Punjab, Haryana and the Union Territory of Chandigarh. The Public School Education Board who is furnished with the accounts and records of the schools was directed to transmit the same to the Committee; who would after hearing the stakeholders look into the justification of the fee hike, based on the materials placed before such Committees, on an individual basis. It was also specified that, if the hike in fees were found to be unwarranted, to that extent, directions can be issued to the institutions to refund such excessive fees to the students.

It is based on these pronouncements of the High Court that the Rules were amended and Rules 158A and 158B were introduced in the Rules with effect from 28.10.2014.

11. Rule 158A provided for the constitution of the FFRC who can adjudicate upon any complaint received or on *suo moto* motion, after due enquiry with regard to charging of capitation fee or excessive fees, direct such institutions to refund the capitation fee or excessive fees levied and collected, together with a recommendation for withdrawal of recognition of the school; after giving reasonable opportunity to the institution. Rule 158B provided for an appeal to be instituted, by any person or the management of a school aggrieved with the orders of the FFRC. The power conferred on the Committee is confined to a complaint regarding levy of capitation fee or charging of excessive fees which can be raised only by a parent or a student. There can be no claim raised by the school before the FFRC to enforce payment of fees by a student or a parent. There can hence be found no express or implied ouster of jurisdiction of the civil court.

12. Section 22 of the Act also ousts the jurisdiction of the civil courts only in matters where the Government or its officers have been empowered to adjudicate upon. The recovery of fees by an institution from the students or parent, is not a power conferred on the Government or its authorities by the statute or the rules prescribed. We hence are of the opinion that there is no ouster of jurisdiction of civil courts insofar as the recovery of fees, which are found to be reasonable.

13. Admittedly, no student or parent approached the Committee constituted as per the order of the Division Bench of the High Court nor the Committee constituted under the Rules as it stood amended in 2014. The students/parents presumably, by reason of the order of the Government introducing a cap of 20% on increase of fees in each successive academic year, declined to pay the fees as notified by the school. When the challenge to the government order succeeded and the appeal filed by the State was also disposed off; without any interference to the judgment of the Single Bench, then the suits were filed in

2014 within the period of limitation; the cause of action having commenced with the disposal of the appeal. The ground of limitation hence fails.

14. The notification of fees and funds to be charged from the students as per Rule 148, has to be followed up with the submission of details of minimum facilities provided and the maximum fee charged, in Form VI. There is no contention raised of the fees having not been notified to the students/parents or Form VI having not been furnished in accordance with Rule 148. In fact, the trial court clearly made the recovery subject to the orders passed by the FFRC. The Appellate Court directed the plaintiff school to refund the amounts decreed and collected, if the decision of the FFRC comes in favour of the students/parents.

15. A Review filed by the plaintiff-school was rejected, which in our opinion was wrong. Admittedly, the students/parents were paying the fees as notified earlier and insofar as the excessive fees are concerned, the FFRC was empowered to look into the same and decide on the justification for the same. Obviously, if the decision of the

FFRC is in favour of the students/parents, it can only inure to their benefit, to the extent to which the fee hike is interfered with by the FFRC. We are clear in our minds that the Review Petitions ought to have been allowed since what was sought to be reviewed was an error apparent on the face of the record.

16. Insofar as the order in Second Appeal, we have already found that the ouster of jurisdiction based on which the trial court order, to the extent confirmed in appeal, was set aside, is improper. Especially, since there can be no ouster of jurisdiction of the civil court found from the Act and Rules; either express or implied. On the basis of the above findings, we allow the Civil Appeals restoring the order of the trial court and modifying it only to the extent of the interest granted, which shall be at 6% as modified by the appellate court.

17. We are informed by the ld. Senior Counsel for the appellant that the audit of the school in respect of the subject academic years has been completed by the FFRC and no illegality, arbitrariness or unreasonableness was found in

the hike proposed and notified by the school. The same has not been placed on record but we make it clear that the trial court's order subjecting the decree of recovery to the decision of the FFRC, would suffice insofar as protection against any excessive levy of fees.

18. The Civil Appeals stand allowed on the above terms. No costs.

19. Pending application(s), if any, shall stand disposed of.

..... CJI.
(B. R. GAVAI)

..... J.
(K. VINOD CHANDRAN)

..... J.
(N. V. ANJARIA)

NEW DELHI;
AUGUST 05, 2025.