
**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No.55 of 2012 (O&M)
Date of decision:06.09.2013**

Pooja Devi and others ...Petitioners
Versus
The State of Haryana and others ...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Jagbir Malik, Advocate,
for the petitioners.

Mr. Nitin Kaushal, AAG, Haryana.

Mr. Sudhir Hooda, Advocate,
for respondent no.3.

RAKESH KUMAR JAIN, J.

The petitioners took admission in Dayanand Public School, Gohana-respondent no.3 in the year 2008 in D.Ed. course. They deposited the following fee for the session 2008-09:-

“1.	Pooja Devi (petitioner no.1)	₹45,000/-
2.	Jaiveer (petitioner no.2)	₹40,000/-
3.	Sucheta Rani (petitioner no.3)	₹40,000/-”

The petitioners came to know that the private institutions could not charge fee more than ₹400/- per month for the D.Ed. course for the academic session 2008-09. Thus, the petitioners have prayed for a writ in the nature of mandamus directing respondent no.3 to refund the amount charged by it in excess towards fee for the session 2008-09 with interest.

Before approaching this Court, the petitioners obtained necessary information under the Right to Information Act, 2005, in this regard that they were not liable to pay more than ₹400/- per month towards fee for the session 2008-09. The petitioners have also relied upon a decision of this Court in the case of **“Neel Mani v. State of Haryana and others”** CWP No.6202 of 2011, decided on 18.10.2011.

Respondent no.3 had also been served upon an advance notice of the writ petition but despite that the amount of excess fee has not been refunded. Hence, the present writ petition.

After notice, respondent no.3 has filed its reply in which it is alleged that the Education Department of Haryana, vide its notification dated 23.06.2009, has fixed the fee of D.Ed. course of the private institutions to the tune of ₹18,400/-. It is further submitted that respondent no.3 is not liable to refund the excess fee as demanded because it is a privately managed self-financed institution.

In the affidavit filed by Dr. D. Suresh, Director General, Elementary Education, Haryana, it is averred that as per notification dated 04.09.1998, the Education Department had fixed ₹400/- per month as a fee and fund to be charged by all private institutes from the students of D.Ed. course which has been revised by subsequent notification dated 23.06.2009 permitting the private institutions to charge fee to the extent of ₹18,400/- including ₹14,400/- as tuition fee and ₹4,000/- as annual charges on various accounts. It is further averred that this notification has become effective w.e.f. session 2009-2010. It is alleged that the Education Department has

asked respondent no.3 several times to refund the excess fee and has also written to the NCTE, Jaipur, to which respondentno.3-School is affiliated, to take action against it in this regard but despite all efforts by the Department, respondent no.3 is not refunding the excess fee to the petitioners.

I have heard learned counsel for the petitioners and on perusal of the record, I am of the considered opinion that respondent no.3 is liable to refund excess fee charged from the petitioners because as per notification dated 04.09.1998, the fees for the D.Ed. Course was fixed @ ₹400/- per month which was applicable for the academic session 2008-09 but the notification dated 04.09.1998 was superseded by the notification dated 23.06.2009 by which the fee for the D.Ed. Course to be charged by the private institutes was re-fixed to the tune of ₹18,400/- from the session 2009-10. Thus, when the petitioners had deposited the fee for the session 2008-09, the notification dated 04.09.1998 was in operation according to which respondent no.3 could not have charged fee more than ₹400/- per month, whereas it had charged fee between ₹40,000/- to ₹45,000/- per month from the petitioners.

I am also not impressed by the submission made by counsel for respondent no.3 that the notification dated 04.09.1998 is not applicable to it as respondent no.3 is a privately managed self-financed institute and in this regard, the letter which has been relied upon by respondent no.3 dated 17.09.2007 attached with the application bearing CM No.12742-CWP-2013 is inconsequential, rather I would rely upon the strong observations made by

this Court in **Neel Mani's case (supra)** in which not only direction has been given to the Director, State Council of Educational Research & Training, Haryana, but the State Government was also directed to constitute a flying squad who shall check the institutions like respondent no.3 at random to find out as to whether they are charging fee as prescribed by the State Government or not and the respondent-school in that case was also burdened with ₹25,000/- as costs.

In view of the aforesaid discussion, the present writ petition is hereby allowed and direction is issued to respondent no.3 to refund excess amount of fee to the petitioners along with 9% interest per annum to be calculated from the date of deposit of fee till its actual realization. Respondent no.3 is further directed to make the payment by way of bank drafts drawn in the name of the petitioners within a period of 2 months from today. It is made clear that in case of any violation of this order, respondent no.3 shall be liable under the provisions of Contempt of Courts Act, 1971.

September 06, 2013
vinod*

(Rakesh Kumar Jain)
Judge