

**HIGH COURT OF MADHYA PRADESH: BENCH AT INDORE**

**Writ Petition No.8025/2020**  
**Association of Unaided CBSE Schools v/s The State of Madhya Pradesh & Others**  
**Indore, dated 15.06.2020**

Shri Piyush Mathur, learned senior counsel along with Shri Gaurav Chhabra, learned counsel for the petitioner.

Shri Vivek Dalal, learned Additional Advocate General for the respondents / State.

Shri Akhil Godha, learned counsel for the Central Board of Secondary Education / respondent No.4.

Shri Vibhor Khandelwal and Shri Suhash Pumellic, learned counsel for the intervenors.

The petitioner before this Court, Association of Unaided Central Board of Secondary Education Schools, a Society registered under the Madhya Pradesh Society Registrickaran Adhinyam, has filed this present petition being aggrieved by the notifications dated 17.04.2020, 24.04.2020 and 16.05.2020.

The contention of learned senior counsel is that an order has been issued by the State Government dated 16<sup>th</sup> May, 2020 directing the schools affiliated to Central Board of Secondary Education to charge tuition fee only.

The order dated 16.05.2020 reads as under:

मध्य प्रदेश 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 यथावत लागू होंगे।

(के.के. द्विवेदी)

उप सचिव

म.प्र. शासन, स्कूल शिक्षा विभाग

The aforesaid order refers to circular dated 17.04.2020 issued by the Central Board of Secondary Education, which is also on record and the same reveals that the Central Board of Secondary Education has permitted the State Government to examine the issue of lumpsum payment of school fees and teachers' salary sensitively and to issue suitable instruction on periodicity of payment of school fee and payment of salary to teaching and non-teaching staffs.

Learned senior counsel has vehemently argued before this Court that there is no Act in the State of Madhya Pradesh, which permits the State Government to fix the fees in respect of the school affiliated to Central Board of Secondary Education and the similar point has been decided by the Division Bench of this Court in *W.P. No.5975/2015*

*(Association of Unaided CBSE School Society v/s The State of Madhya Pradesh & Others)* on 10.04.2017. He has also stated that the Punjab and Haryana High Court has also interfered with the directions issued by the State Government and has permitted the parents to pay the fee in two equal installments in six months.

Learned senior counsel has also stated that the matter relating to payment of fee in respect of the State of Uttarakhand is also pending before the Supreme Court i.e. SLP No.6782/2020 and as the schools are having recurring expenses, they are charging tuition fee and fee under the head after excluding the unincurred expenses. He has clarified that unincurred expenses include petrol & diesel and the expenses, which are incurred in the mess, in case, they are residential schools, and therefore, care has been taken not to recover the unincurred expenses.

Learned senior counsel has also argued before this Court that the schools are required to pay full salary to the teachers and non-teaching staffs, and therefore, they are recovering fees and tuition fees excluding unincurred expenses.

Learned Additional Advocate General for the State of Madhya Pradesh has vehemently argued before this Court that the order has been passed under the Disaster Management Act and it gives wide power to the State of Madhya Pradesh to pass appropriate order and the same has been done. He has also stated that keeping in view the pandemic COVID – 19, the State Government is justified in issuing the order directing recovery of tuition fee only.

Learned senior counsel has informed this Court that under Sections 18 and 19 of the Disaster Management Act, the State Disaster Management Authority can pass such an order whereas in the present case, the order has not been passed by the competent authority.

Shri Akhil Godha, learned counsel for the Central Board of Secondary Education has argued before this Court that they have already issued a circular and some of the High Courts have directed the schools to submit a representation and the respective State Government has been directed to decide their representation.

There is an application for intervention also filed by the Parents Association and arguments canvassed by the learned counsel for the intervenor have been heard.

This Court, after taking into account the arguments canvassed by learned counsel for the parties and keeping in view the earlier judgment passed by the Division Bench in Writ Petition No.5975 of 2015, is of the considered opinion that the impugned orders dated 24.04.2020 and 16.05.2020 deserve to be stayed and is accordingly, stayed.

It is made clear 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.

Let a detailed reply be filed within four weeks by all the respondents, as all the respondents have been served.

List the matter on **28<sup>th</sup> July, 2020**.

It is needless to mention that in case, certified copy is not available due to some technical reason, the order

uploaded on the website of the High Court shall be treated as certified copy for all purposes and the counsel shall be free to obtain certified copy later on as and when facilities are made available to him.

(S.C. SHARMA)  
J U D G E

**Ravi**