

WP-9869-2015

(M/S CATHOLIC DIOCESAN EDUCATIONAL SOCIETY Vs THE STATE OF MADHYA PRADESH)

07-11-2016

Shri Arjun Singh for the petitioners.

Shri Swapnil Ganguly, Government Advocate, for the State/respondents.

Challenging the policy as contained in a communication dated 30.4.2015, issued by respondent No.2, this writ petition was filed.

Challenging the same communication various writ Petitions were filed and on 12.4.2016, one such writ petition being W.P. No.8478/2015 (Christ Church Girls Senior Secondary School Vs. The State of MP and others) was disposed of by this Court in the following manner:-

â□□ In these petitions, the petitioners have challenged the impugned order dated 30.04.2015 passed by the State Government whereby on the basis of a policy formulated by the State Government steps are being taken and the State Government institutes are being compelled to fix the fees in accordance with the policy formulated. The contention of the petitioners in these writ petitions are that the policy being non-statutory, in the nature of executive inspection, it cannot be enforced as there is no statutory approval to the policy in question.

This aspect of the matter has already been considered by the Gwalior Bench of this Court in various writ petitions being W.P.No.2450/2012, WP

No.5775/2012 and W.P.No.3709/2012 and various other cases collectively decided by an order passed on 30.05.2015 wherein it has been held that the policy which does not have backing of a statute cannot be enforced.

In the light of the aforesaid judgments rendered by Gwalior Bench, today on behalf of the State Government certain preliminary submissions are made in a detailed counter affidavit filed along with the affidavit of District Education Officer, Jabalpur.

Keeping in view the aforesaid, now as the State Government has come out itself with the statement that the policy dated 30.04.2015 is not being enforced for the present and as and when new policy, statute or ordinance is issued, the petitioners have a right to challenge the same, we see no reason to keep these matters pending as the petitioners' grievance stands now remedied by aforesaid orders passed by the Gwalior Bench and the stand taken by the State Government as indicated hereinabove.

In view of the above, both these petitions are disposed of and liberty is granted to the petitioners to challenge the action taken by the State Government in future in accordance with law if they have any grievance in the matter.â

Keeping in view the aforesaid, we find no further indulgence to be made into the matter.

This petition is also disposed of in identical terms.
CC as per rules.

(RAJENDRA MENON)
ACTING CHIEF JUSTICE

(SMT. ANJULI PALO)
JUDGE

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