

D.B. Civil Writ Petition No.6188/2014

<b>Petitioner :</b>	SWAYAM SEVI SHIKSHAN SANSTHAN ORS
<b>Respondent:</b>	STATE (EDUCATION DEPARTMENT)ORS
<b>Petitioner Advocate:</b>	NAYAN JAIN
<b>Respondent Advocate:</b>	JAG MOHAN SAXENA AAG
<b>Class Code : 2612</b>	<b>Registered on : 24/5/2014</b>
<b>Bench : DB</b>	<b>Disposal Date : 12/7/2016</b>

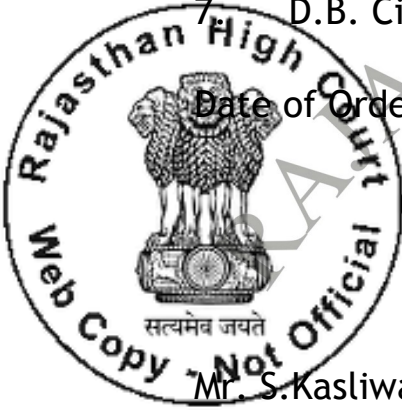
**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN  
JAIPUR BENCH, JAIPUR**

1. D.B. Civil Writ Petition No.7725/2015
2. D.B. Civil Writ Petition No. 1812/2014
3. D.B. Civil Writ Petition No.6188/2014
4. D.B. Civil Writ Petition No.616/2015
5. D.B. Civil Writ Petition No.617/2015
6. D.B. Civil Writ Petition No.2273/2015
7. D.B. Civil Writ Petition No.7767/2015

Date of Order: 12/07/2016

**HON'BLE MR. JUSTICE AJAY RASTOGI**

**HON'BLE MR. JUSTICE J.K. RANKA**



Mr. S.Kasliwal Sr. Advocate with  
Mr. R.N. Vijay Adv.,  
Mr. Ashwani Chobisa Adv.,  
Mr. Mahendra Singh Adv.,  
Mr. Raunak Bapna Adv., &  
Mr. Akash Shrivastava Adv., for petitioners.  
Mr. Vishan Sharma Adv. on behalf of Advocate General.  
Mr. Rajendra Prasad, AAG  
Mr. Surya Pratap Singh Adv.,  
Mr. Rajendra Soni Adv.,  
Mr. Anoop Dhand Adv., for respondents.

Instant batch of petitions has been filed assailing validity of the provisions of Raj. Schools (Regulation of Collection of Fee) Act, 2013.

It manifests from the record that in some of the petitions consequential order passed by the fee determination Committee of Private unaided Institutions under the Act of 2013, is also under challenge. We may notice that after the matter being initially heard at the motion stage, after taking note of the rival contentions of the parties, detail order came to be passed by this Court in CWP-1812/2014 dt.07/10/2014 & observed in para Nos.14 & 15 ad-infra :-

“14. As an interim measure, we direct that unaided private schools in the State of Rajasthan, for which the fee structure has not been determined by the Committee, will be free to increase the fees for the academic session 2014-15, and thereafter, until the fee structure is determined in respect of such school by the Committee constituted under the Rajasthan Schools (Regulations of Collection of Fee) Act, 2013, on a condition that such unaided private schools will submit an undertaking to the statutory body with which they are affiliated and recognized, to the effect that they will abide by the fee structure to be fixed by the Committee under the Rajasthan Schools (Regulations of Collection of Fee) Act, 2013 subject to challenge of the increase in accordance with law. This undertaking will be in addition to the undertaking to be given under sub-rule (1) of Rule 8A (Form-1) for grant of recognition under the Rules made under the RTE Act. The undertakings will be furnished within one week from the date of this order.

15. List again on 19.11.2014 along with all connected matters, for final hearing. It will be open to the State-respondent to supplement its pleadings by bringing on record all the facts and the documents, which it wants to rely upon. The additional pleadings will be exchanged by the parties within four weeks.”

Thereafter, when the matter came up before the Court, after hearing the parties further order was passed by the Court on 09.03.2015 & observed in para Nos. 7, 8 & 9 ad-infra:-

“7. It is submitted that the academic session in all



the private schools for the year 2014-15, for which the school fees has been fixed by the Committee, by adopting a standard formula, without any deviation or exception, drastically reducing the schools fees charged, will come to an end in March-April 2015. The directions issued by the Committee under Section 6(4) of the Act, applied retrospectively, will cause serious financial hardships to these schools, as the salaries of teachers and staff have been paid, and the projects of modernization/expansion, repairs and maintenance, and repayment of loans is in progress. The directions issued by the Committee, in reducing the school fees, will result into losses, leading to closure of many such private schools.

8. The State-respondents are allowed three weeks' time to file detailed replies to the applications and additional affidavits, including the Committee, for which Shri Rajendra Prasad, Additional Advocate General has assured to put in appearance. The rejoinder affidavits/replies will be filed within two week thereafter.

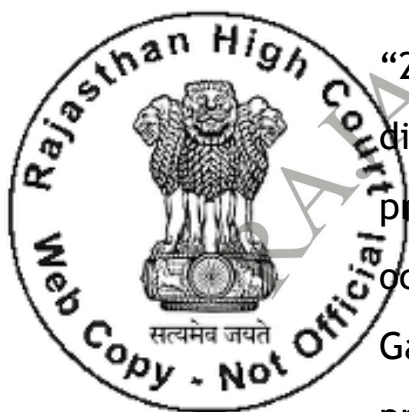
9. List for hearing on 21.04.2015. Until further orders, the orders passed by the Committee under Section 6(4) of the Act, shall not implemented, and no coercive steps will be taken by the State Education Authorities, for enforcing such orders.”

All these orders passed by the Court were finally made absolute vide order dt.15.10.2015 and for all practical purposes the recommendations of the fee Committee constituted under the Act, 2013 by virtue of the interim order passed by the court in batch of



writ petitions, could not be executed and remains only on papers.

It is also brought to our notice that the Act of 2013 now stands repealed in view of Sec.22 of the Rajasthan Schools (Regulation of Collection of Fee) Act, 2016, & made applicable w.e.f. 1-7-2016 and we consider it appropriate to quote Sec.21 & 22 ad infra.



**“21. Power to remove difficulties.-** (1) If any difficulty arises in giving effect to any of the provision of this Act, the State Government may as occasion arises, by an order published in the Official Gazette do anything not inconsistent with the provisions of this Act which appears to it to be necessary or expedient for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under sub-section (1) shall be laid as soon as may be after it is made, before the House of the State Legislature.

**22. Repeal and saving.-** The Rajasthan Schools (Regulation of Collection of Fee) Act, 2013 (Act No.14 of 2013) is hereby repealed.”

Taking note of the provisions (supra), we consider it appropriate to observe that if any difficulty arises in implementation of the provisions of the Act, 2016, it is always open for the State Government to clarify for effective implementation of the provisions.

It also reveals that under the Act, 2016, there is no saving clause in regard to the orders or action taken by the competent authority

under the Act, 2013. The present writ petitions for all practical purposes have become infructuous & the order and action taken under the Act, 2013 shall not be given effect to in view of the present changed circumstances and with these observations, the present batch of writ petitions are accordingly disposed of as having become infructuous.

Copy of the order be separately placed in each file.

(J.K. RANKA), J.

(AJAY RASTOGI), J.

S Kumawat/-

*All corrections made in the judgment/order have been incorporated in the judgment/order being e-mailed.*

*S.Kumawat  
Jr. P.A.*



सत्यमेव जयते