

**HIGH COURT OF JUDICATURE FOR RAJASTHAN  
BENCH AT JAIPUR**

D.B. Civil Writ Petition No.9620/2018  
With  
D.B. Civil Misc. Second Stay Application No.20023/2018

Kirtika Jain And Others

----Petitioners

Versus

Union Of India And Others

----Respondents

With

D.B. Civil Writ Petition No.10690/2018

With

D.B. Civil Misc. Second Stay Application No.20187/2018

Narash Dagur and Others

----Petitioners

Versus

Union Of India And Others

----Respondents



---

For Petitioner(s)	:	Mr. Dileep Sinsinwar with Mr. Amit Ojha
For Respondent(s)	:	Mr. Mahendra Singh with Mr. Raunak Bapna Mr. Prateek Kasliwal Mr. S.K. Gupta, Additional Advocate General

---

**HON'BLE MR. JUSTICE MOHAMMAD RAFIQ  
HON'BLE MR. JUSTICE GOVERDHAN BARDHAR**

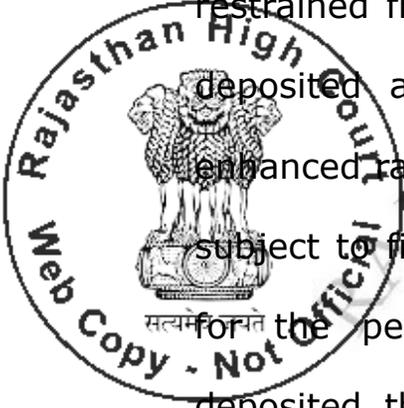
**Order**

**30/10/2018**

The arguments were heard on the second stay application. The learned counsel for the petitioners has submitted that a coordinate bench of this court by order dated 24.05.2018 in a bunch of writ petitions leading one being D.B. Civil Writ Petition

No.8958/2018 – Bharatiya Vidya Bhavan and Another Vs. State (Education Department) and Another, while taking note of the fact that majority of the students have deposited the fee at enhanced rate though some of them did not deposit the fee at the enhanced rate, permitted such students to deposit the fee as per the old rate and in the event of their doing so, the respondents were restrained from taking any coercive action against them. The fee deposited at the old rate by such students and as per the enhanced rate by the majority of students, was ordered to remain subject to final outcome of the writ petition. The learned counsel for the petitioners submitted that when the students, who deposited the fee of the first term at the old rate, offered to deposit fees of the second term on the old rate, the respondents refused to follow the said order.

Mr. Mahendra Singh, learned counsel for the respondents, submitted that in so far as deposit of the fee of the first term by the students with the Vidyashram, Pratap Nagar, Jaipur, is concerned, out of 1609 students, total 1259 students have deposited the fee for the first term at the enhanced rate and 930 students have deposited the fee at the enhanced rate for the second term. Regarding the Vidyashram, K.M. Munshi Marg, Jaipur, out of 3094 students, 2919 students have deposited the fee at the enhanced rate for the first term and likewise 2404 students have deposited the fee at the enhanced rate for the second term. Mr. Mahendra Singh, the learned counsel for the respondents, submitted that pay of the staff of the school was revised with effect from 01.01.2018 pursuant to the recommendations of the Seventh Pay Commission and owing thereto, there was additional burden of 31% on the financial



resources of the school in the financial year 2018-19 in comparison to the financial year 2017-18. It is submitted that the school management has challenged validity of the relevant provisions of the Rajasthan Schools (Regulations of Fee) Act, 2016 and the Rajasthan Schools (Regulations of Fee) Rules, 2017 as also the order dated 19.04.2018 passed by the District Education Officer (Secondary), Jaipur-I, Jaipur and the order dated 30.04.2018 passed by the Director, Secondary Education for Rajasthan, Bikaner, the operation of which was stayed by this court vide order dated 24.05.2018, supra.



M. S.K. Gupta, the learned Additional Advocate General appearing on behalf of the State, submitted that the respondent school-management ought to follow the same interim order for the subsequent terms till the writ petitions remain pending and ought not to compel the students or their parents to deposit the fee as per the enhanced rate.

Not only the school management has filed the writ petition challenging the validity of the aforesaid statutory provisions and the orders passed pursuant thereto, the students/their parents have also approached against the action of the management of the respondent Schools in substantially enhancing the fee. Therefore, the writ petitions have been ordered to be clubbed with the writ petition filed by the school management. The issue will have to be decided finally once and for all but at the same time it should be observed that till the aforesaid Act and the Rules are not declared ultra vires the Constitution, there is a presumption with regard to their constitutional validity. Therefore, this court is inclined to reiterate the same order which was passed on 24.05.2018, supra, albeit in respect of the first term, in respect of

the students, who have so far not deposited the fee as per the enhanced rate. In case any student is willing to deposit the fee as per the enhanced rate, it would be open for him/her to do so. It would, however, be open for the students, who have so far not deposited the fee as per the enhanced rates, to deposit the fee at old rate basis. The respondent-school-management is restrained from taking any coercive action against them in case they deposit the fee till 15.11.2018, failing which the defaulting students shall not be entitled to the benefit of this order. A notice to this effect should be displayed by the school-management on their website as well as on notice-board of the school.

List on 27.11.2018.

A copy of this order be placed in the file of D.B. Civil Writ Petition No.10690/2018.

(GOVERDHAN BARDHAR),J

(MOHAMMAD RAFIQ),J

//Jaiman//36

सत्यमेव जयते