

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT: MR. JUSTICE MIAN SAQIB NISAR, HCJ.
MR. JUSTICE FAISAL ARAB.
MR. JUSTICE IJAZ UL AHSAN.

CIVIL APPEAL NO.1095, 1096, 1097, 134-L, 1021, 1022, 1023,
1024, 1025, 1026, 1138, 1154, 1155, 1156, 1157, 1158 AND
3854 OF 2018 AND CIVIL MISC. APPLICATIONS NO.8466 AND
9202 OF 2018 IN CIVIL PETITIONS NO.NIL OF 2018

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| Mohammad Imran | In C.A.1095/2018 |
| Rehan Ahmed | In C.A.1096/2018 |
| Kiran Nadeem | In C.A.1097/2018 |
| Govt. Of the Punjab through its Minister of Education, Lahore, etc. | In C.A.134-L/2018 |
| BPS (Pvt.) Ltd. & others | In C.A.1021/2018 |
| Bay View Academy (Pvt.) Ltd., Karachi etc. | In C.A.1022/2018 |
| Educational Systems (Pvt.) Ltd., Karachi etc. | In C.A.1023/2018 |
| City Schools (Pvt.) Ltd., Karachi | In C.As.1024, 1025, 1154 & 1155/2018 |
| Shahrukh Shakeel Khan etc. | In C.A.1026/2018 |
| Civilizations (Pvt.) Ltd., Karachi etc. | In C.A.1138/2018 |
| Beaconhouse School System, Karachi | In C.As.1156 to 1158/2018 |
| Foundation Public School (Pvt.) Ltd. Karachi and another | In C.A.3854/2018 |
| All Private Schools Management etc. | In C.M.A.8466/2018 |
| Origins School & others | In C.M.A.9202/2018 |

... Appellant(s)

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| Province of Sindh through Chief Secretary etc. | In C.As.1095 to 1097, 1025, 1026 & 1154 to 1158 & 3854/2018 |
| City School (Pvt.) Ltd., etc. | In C.A.134-L/2018 |
| Province of Sindh through Secretary Education/Law and Parliamentary Affairs, Sindh | In C.A.1021/2018 |
| Province of Sindh through Secretary Education and Literacy, Karachi etc. | In C.As.1022 to 1024, 1138/2018 |
| Province of Sindh through Chief Secretary Education | In C.M.A.8466/2018 |
| Province of Sindh through Chief Secretary Education | In C.M.A.9202/2018 |

... Respondent(s)

For the appellant(s): Mr. Faisal Siddiqui, ASC
(In C.A.1095 to 1097 & 1026/2018)
Rana Shamshad Khan, Addl.A.G. Punjab
Mr. Zubair Khan, Dy. Secy., School
Education Punjab. (In C.A.134-L/2018)

Mr. Shahid Hamid, Sr. ASC.
Ms. Ayesha Hamid, ASC
(In C.As.1021 & 1166 to 1168 & CP.4476/2018)
Syed Faisal Hussain Naqvi, ASC
(In C.As.1022 & 1138/2018)
Mr. Shahzad Ata Elahi, ASC
Ch. Akhtar Ali, AOR
(In C.As.1023, 1024, 1025 & 1154 & 1155 and
CP.4475/2018)

Mr. Hasan Akbar, ASC
(In C.M.A.8466/2018 In C.P.III/2018)

Mr. Khurram Mumtaz Hashmi, ASC
(In C.As. 1486 and 1487/2018)

For the respondent(s): Mr. Ghulam Shabbir Shah, A.A.G. Sindh
a/w Dr. Mansoob Hussain Siddiqui, D.G.
Schools Sindh.

Mr. M. Habib Merchant, ASC
Syed Ali Raza, ASC
Mr. Tariq Aziz, AOR
(In C.A.134-L/2018)

Mr. Salman Akram Raja, ASC
(For Private Education Network)

Kh. Muhammad Hussain, ASC.
a/w Mr. Ihtasham, Director LGS (for LGS &
LACAS).

Mr. Salim-ur-Rehman, ASC
(In C.A.1138/2018)

Mr. Abid Hussain Chatha, ASC
(For respondent No.2 in C.A.134-L/2018)

Malik Haroon Iqbal, ASC
Mr. Mehar Khan Malik, AOR
(In C.M.A.8811/2018)

Mr. Azam nazir Tarar, ASC.
Mr. Hassan Nawaz Makhdoom, ASC.
(for Roots School System and Resource
Academia)

Barrister Haroon Mumtaz, Legal Advisor
(For respondent No.11 in C.A.134-L/2018)

Nemo for PEMRA

Mr. Gafran Elahi, President Private Schools
Association, Islamabad.

Mr. Rashid Hanif, ASC.

Dr. Muhammad Raheem Awan, Secy. LJCP.

Mrs. Nausheen Amjad, Member Taxpayer
Audit, FBR.

Mr. Mudassir Khalid Abbasi, ASC.

Date of hearing: 10.01.2019.

ORDER

IJAZ UL AHSAN, J.- We had passed an interim order on 13.12.2018 directing 22 schools mentioned therein to reduce their fees by 20%. Further, it was directed that future increases in the fees (after the aforementioned reduction) shall strictly be in the range of 5% to 8%. The said schools were allowed to increase their fees by 5% for the next academic year whereas for any increase of school fee between the range of 6% to 8%, the schools were required to seek permission of their Regulatory Body which was to determine the same accordingly. It was further directed that schools which had received fee during the summer vacations should adjust the same in future fees or refund half of such fees within two months. It was also directed that no school shall under any circumstances be closed nor the students be expelled from such schools. The Chairman, FBR was also directed to scrutinize tax records of all schools mentioned in the order as well as those of their management including their Directors, etc. In this regard, in order to facilitate such audit, DG, FIA was directed to immediately take into custody the ledger books and computerized accounts of the schools till further orders. The audit report has been filed which is placed on record.

2. We have been informed that pursuant to the aforementioned order and as a reaction thereto, some of the private schools have taken an adversarial stance in order to pressurize the parents or this Court to give up their principled stand that

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education and educational services should be provided at reasonable rates of fee. Such steps are meant to intimidate the students and their parents which is deprecated by this Court.

3. We live in a country of laws and private individuals cannot be permitted to flout the laws and circumvent orders passed by the highest Court of the country. In this regard, our attention has been drawn to Headstart School as well as Ecole des Lumieres School of Light which have circulated highly derogatory letters addressed to parents and guardians. Let notices be issued to the Owners/Directors/Chief Executives of the said schools to appear before this Court on the next date of hearing to explain why proceedings for contempt of Court may not be initiated against them and they may not be punished in accordance with the law.

4. The learned counsel appearing on behalf of the private schools have categorically stated that the order of this Court dated 13.12.2018 is being implemented in letter and spirit and the question of flouting or subverting the same does not arise.

5. It has further been pointed out that there is some confusion about reduction of fee by 20% and the amount to which said 20% applies. Further, it is unclear if the order applies to the 22 Schools before this Court or all Schools charging fees in excess of Rs.5000/- per month. In this context, some other/further clarifications/modifications in our earlier


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order are required. Therefore, the following clarifications and modifications are issued:-

- i. That order dated 13.12.2018 applies to all schools which charge fees in excess of Rs.5000/- per month throughout Pakistan without exception.
- ii. That the reduction of 20% shall be made on amounts in excess of Rs.5000/- which essentially means that notwithstanding the total amount of fee, the first Rs.5000/- is exempt from reduction of 20% and such reduction would only be applicable to amounts in excess of Rs.5000/- per month.
- iii. That the students and their parents are required to pay fees at a time to be fixed by the schools. Any student who does not pay the reduced fee would be liable to such disciplinary action as the rules and regulations of the school may permit for non payment of the fee.
- iv. That all awards, scholarships and other incentives already given to students shall remain intact and shall neither be reduced nor withdrawn.
- v. That the schools shall not till further orders take any steps for reducing the salaries or number of teachers who were employed with schools at the time when the interim order was passed.

6. We have been informed that certain institutions including Resource Academia, Lahore have already closed down. However, pursuant to the order of this Court, FIA has approached their Directors/Chief Executive for submission of their records. It is clarified that schools/institutions which had already closed down when the order dated 13.12.2018 was passed would not be required to provide their ledger books and

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accounts to FIA. Further, FIA shall return all records and computers taken into custody, after making copies thereof.

7. It may be noted that the Law & Justice Commission of Pakistan had conducted an elaborate exercise involving educationists, experts, planners and other stakeholders in the field of education. This is an effort to compile a list of proposals designed to address the problems faced by the educational system in Pakistan and ways to improve it. The report had been placed on its website and also circulated amongst private and public sector schools for their comments and input. We have been informed that some input and proposals have been received which require consideration.

8. We would also like to find a mechanism whereby actions by private schools meant to resist and undermine regulatory steps can be countered. Such actions include reduction of facilities in schools, increase in number of students in classes, reduction of teaching staff, reduction in their salaries and other related matters. It has also been noticed that the audit conducted by FBR has revealed that the private schools are being run like businesses where the Directors and Chief Executives are drawing huge salaries while complaining before this Court that they are earning negligible profits and that even the aforesaid 20% reduction in fees would lead to closure of schools. It also needs to be examined how the regulatory authorities can interact and regulate schools so that the rampant practice of overcharging the students can be curtailed.

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The issue of Trust Schools and Institutions being run on non profit basis needs to be addressed.

9. With the above in mind, we are of the view that the matter should be fixed for final hearing and decision on merits. However, the interim orders already passed with the clarification given in this order shall continue till the next date of hearing.

10. The office is directed to prepare a separate file for notices issued to the Headstart School as well as Ecole des Lumieres School of Light which shall be fixed for hearing on Monday, i.e. 28.01.2019.

11. IGP, Islamabad, present in Court, who was directed to produce the Chief Executive/Directors of the said schools is ordered to ensure that the Directors / Chief Executives of the said Schools appear before this Court on the next date of hearing.

Sd/-HCJ

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Sd/-J

Certified to be True Copy



ISLAMABAD, THE
10th of January, 2019.

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Not Approved For Reporting

Court Associate
Supreme Court of Pakistan
Islamabad

3582/19

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|-----------------------|---------|----------------|
| GR No: | 3582/19 | Civil/Criminal |
| Date of Presentation: | 31/1/19 | |
| No of Words: | 2102 | |
| No of Folios: | 20 | |
| Requisition Fee: | 500 | |
| Copy Fee: | 132 | |
| Court Fee: | 18 | |
| Date of Completion: | 1-2-19 | |
| Date of delivery: | 21/2/19 | |