

ORDER SHEET
HIGH COURT OF SINDH, KARACHI

C.P. No.D-5367, 5668, 6279, 6855 & 7141 of 2019

Date	Order with signature of Judge
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Present

Mr. Justice Muhammad Ali Mazhar.

Mr. Justice Yousuf Ali Sayeed.

C.P.No.D-5367 of 2019

Sajjad Ali.....Petitioner

Versus

The Province of Sindh & othersRespondents

C.P.No.D-5668 of 2019

Nabeel Arif & others.Petitioners

Versus

The Province of Sindh & othersRespondents

C.P.No.D-6279 of 2019

Usman Iqbal & others.Petitioners

Versus

The Province of Sindh & othersRespondents

C.P.No.D-6855 of 2019

Ashfaq Suleman & another.....Petitioners

Versus

The Province of Sindh & othersRespondents

&

C.P.No.D-7141 of 2019

Shoaib Khatri & others.Petitioners

Versus

The Province of Sindh & othersRespondents

Date of hearing 30.01.2020

Mr. Mairajuddin advocate for the petitioners.

Barrister Hasnain Ali advocate for the Roots Millennium School in all petitions a/w Mr. Shahmir advocate.

Mr. Jawad Dero, Addl. A.G.

Dr. Mansoob Siddiqui, Director General, Directorate of Private School/Institutions Sindh Education & Literacy Department, Government of Sindh

Shumail Waris, Campus Manager, Roots Millennium School Future World Campus, Bahria Town, Karachi

Petitioners namely Aamir Majeed, Masood Ahmed Abro, Asadullah Pathan, Muhammad Naveed, Sikandar Ali, Shahnawaz Arain, Muhammad Yousif, Naveed Arain, Salman Akbar, Usman Dawar, Shunail Akram, Zainuddin Anwar Ali Siskanwala, Hassan Marri, Shumaila Khurram, Nabeel Arif, Zubair Ahmed Khan, Asif Majeed, Tashfeen Haider, Ashfaq Khanani and Sajjad Ali Jagirani are present in their respective petitions.

Muhammad Ali Mazhar, J: Learned counsel for the petitioners argued that Roots Millennium School, Future World Campus, situated at main Superhighway, Bahria Town Karachi was registered with School Education Department, Government of Sindh vide registration letter dated 15.06.2017. He also referred to office order dated 15.06.2017 issued by Dr. Mansoob Hussain Siddiqui Director General, Directorate of Private School/Institutions Sindh Education & Literacy Department, Government of Sindh for class wise fee structure for O' Levels. Class wise tuition fee mentioned in the office order is reproduced as under:-

Tuition Fee Class:- Play Group	Rs. 22,000/- Per Month
Tuition Fee Class:- Jr. Montessori	Rs. 22,050/- Per Month
Tuition Fee Class:- Adv. Montessori	Rs. 22,100/- Per Month
Tuition Fee Class:- Grade-1	Rs. 21,950/- Per Month
Tuition Fee Class:- Grade-2	Rs. 22,025/- Per Month
Tuition Fee Class:- Grade-3	Rs. 22,075/- Per Month

Tuition Fee Class:- Grade-4	Rs. 22,175/- Per Month
Tuition Fee Class:- Grade-5	Rs. 22,210/- Per Month
Tuition Fee Class:- Grade-6	Rs. 23,125/- Per Month
Tuition Fee Class:- Grade-7	Rs. 23,425/- Per Month
Tuition Fee Class:- IGCSE-I,II,III	Rs. 28,010/- Per Month

2. He further argued that on 29.05.2019, Allah Bachayo Memon Deputy Director (Admin), School Education & Literacy Department, Government of Sindh communicated one of the petitioners Fahad Bin Arif with regard to approved fee structure of the same school. The table of fee is reproduced as under from the same letter:-

Root Millennium School Future World Campus (“O”-Level).
Main Super Highway, Bahria Town, Karachi.

Class/Grade	Play Group	Junior Montessori	Advance Montessori	Class-I	Class-II	Class-III	Class-IV
Monthly Tuition fee in Rs.	5500/-	5513/-	5525/-	5488/-	5506/-	5519/-	5544/-

Class-V	Class-VI	Class-VII	Class-VIII	Class-IX	Class-X	Class-XI
5553/-	5781/-	5856/-	7003/-	7003/-	7003/-	7003/-

3. Learned counsel after referring both tables argued that instead of charging fee according to office order available at page 63, the School Management is asking to pay amount according to notification dated 15.06.2017. When we confronted this position to Dr. Mansoob Hussain Siddiqui Director General, Directorate of Private School/Institutions Sindh Education & Literacy Department, he informed us that a warning was issued to the Deputy Director (Admin) who has issued this letter without any approval and on calling his explanation, he submitted that letter was issued inadvertently. In this regard a letter is also available on record dated 02.08.2019 whereby an explanation was also called from Allah Bachayo Memon, Deputy Director (Admin) to

explain his position as to why he communicated incorrect fee structure, however, on 30.07.2019, the Director General again issued office order under his signature for rectifying the defects and reverted back to the same fee structure as communicated vide order dated 15.06.2017.

4. Learned counsel for the petitioners argued that the fee slab communicated by Director was also placed by the respondents in C.P. No.D-6274 of 2017 on which again learned Addl. A.G. raised dispute for fee schedule. Learned counsel for the petitioners has also shown us copy of various fee challans in different dates and year with the clear assertion that in each fee challan there is a column of subsidy under the head of "RMS BTR Subsidy". When we asked learned counsel for the Roots Millennium School to explain this term. He unequivocally informed us that "RMS" means Roots Millennium School and "BTR" means Bahria Town Residents. We also noted that this head is continuously appearing even in the last challan issued for the payment of fee for the month of December 2019 the same subsidy column is appearing in the challan, therefore, he submits that in terms of sub-clause (iii) of sub-Section (1) of Section 6 of the Sindh Private Educational Institutions (Regulation and Control) Ordinance, 2001 the facility allowed to the students at the time of admission cannot be subsequently withdrawn or reduced and according to the interpretation of this sub-Section, the learned counsel for the petitioners added that the subsidy allowed to the petitioner's children by the school is

fully covered under the premise of facility which was allowed/ extended at the time of admission and this should have been continued without any break. He further argued that the parents/petitioners were never communicated any correspondence for the withdrawal of this subsidy by the Institution.

5. Learned counsel for the Roots Millennium School first time produced a letter of Bahria Town (Pvt.) Ltd. which was communicated to the CEO of Roots Millennium School on 08.03.2017 which is obviously a date prior registration of the school by the Regulatory Authority. The letter is reproduced as under:-

“To: The CEO Roots Schools

Ref.BTK/M&S/0011
Date 08 March 2017

Subject: Fee Structure – Roots School Bahria
Town Karachi

Dear Chaudhry Faisal Mushtaq,

1. Bahria Town Karachi management welcomes you at the opening of your reputed school at its premises. We assure you of our full cooperation in its smooth functioning.

2. According to the decided terms, the following conditions will apply:

a. While Roots School will charge their tariff fee from all nonresidents as per their policy, 50% fee discount will be given to Bahria Town Karachi employees and other BTK residents.

b. Roots School will charge 50% of Admission & Registration fee from Bahria Town employees and other BTK residents. In addition BTK residents will pay 50% security

fee whereas BTK employees will be exempted from security fee.

c. For the first academic year, Roots School will provide special subsidy. Accordingly, all Bahria Town Karachi residents including BTK employees (having Bahria Town utility bills on parents' names, Owners or Tenants living within Bahria Town) will be eligible for a subsidized monthly fee of PKR 7,500/-. This will only be applicable for the first academic year. In turn Bahria Town will waive off its 27.50% Revenue Rental for the first academic year in conjunction with this subsidy. In essence, Bahria town would be paying for the residents' subsidy through the waiver of Revenue Rental.

3. In this context it is reiterated that Bahria Town will not pay any additional amount. The waiver of Revenue Rental BTK is for the first academic year. This will be considered as its share in the subsidy for the residents.”

6. Learned counsel further argued that this facility was only extended for one year and he referred to clause “c” of paragraph-2 and paragraph-3 and argued that this facility was limited to certain extent which period has already been lapsed and after passing one year period, this subsidy may not be available to them. He further argued that the withdrawal of this subsidy was communicated to the petitioners, however, he has not placed anything on record of any such communication except that the children were informed that has already been denied by the petitioners and their counsel that they were never served with such notice. He further argued that fee slab or its subsidy cannot be construed as facility as argued by the learned counsel for the petitioners.

7. Be that as it may, various factual controversies and disputed facts have been raised for and against in these petitions which cannot be resolved under the constitutional jurisdiction of this court but at the same time the Director General School is the ultimate authority in these matters to hear the parties and decide the controversies in accordance with law. On last date of hearing learned counsel for the Roots Millennium School wanted to file statement. Today he has filed an affidavit of Chief Operating Officer of Roots Millennium School (Pvt.) Ltd. in which with reference to this petition, he has clearly mentioned that School will only charge fee/ dues from the students as approved by the Directorate of Inspection and no other charges shall be levied upon the students including but not limited to lab charges, security charges *et cetera*. This clear indemnity is taken on record. It is a matter of record that column of subsidy is appearing in all fee challans and last challan which has been produced before us is for December, 2019 and even in this challan the subsidy column is appearing with some reduction in fee.

8. After arguing at some length, learned counsel for the petitioners and Roots Millennium School as well as learned Addl. A.G. have agreed to the following modalities to dispose of the petitions in the following terms:-

- i. Matter is referred to the Director General, Directorate of Private School/Institutions Sindh Education & Literacy

Department, Government of Sindh who is present in court. He is directed to constitute and notify Inquiry Committee within 10 days.

- ii. The Inquiry Committee shall consider the last approved fee structure including the letter issued by Bahria Town Management Karachi to the CEO of Roots Millennium School with some slabs of fee concession. They shall also consider the effect of sub clause (iii) of sub Section (1) of Section 6 provided under the Sindh Private Educational Institutions (Regulation and Control) Ordinance, 2001 whether the word facilities used in sub clause (iii) connotes all facilities including subsidy granted at the time of admission?
- iii. The entire exercise shall be completed by the Inquiry Committee within a period of one (01) month. Since we have jot down the entire controversy in the order, therefore, Director General Schools present in court submits that he will treat this reference as complaint and matter will be placed before the Inquiry Committee and he undertakes that matter will be decided as per procedure laid down in Sindh Private Educational Institutions (Regulation and Control) Rules, 2005 read with relevant provisions of the Sindh Private Educational Institutions (Regulation and Control) Ordinance, 2001 within a period of 30 days. He further submits that Inquiry Committee will be constituted in

terms of Rule 18 of the Sindh Private Educational Institutions (Regulation and Control) Rules, 2005 through an office order and Inquiry Committee shall forward their recommendations to the Registration Authority and, thereafter, Registration Authority shall pass appropriate order after providing right of hearing to the petitioners.

- iv. He will notify the first date of inquiry proceedings to the petitioners as well as registered office of the Roots Millennium School so that they may cause their appearance before the Inquiry Committee to proceed the matter.
- v. Till such time the inquiry remains pending and on the recommendations of Inquiry Committee final orders are passed, no coercive action shall be taken against the petitioners' children. The petitioners shall continue to pay fee at the rate of Rs. 8000/- per month in view of the order dated 03.12.2019. All petitions are disposed of with pending applications.

Office is directed to place copy of this order in connected petitions.

JUDGE

JUDGE