



GOVERNOR'S SECRETARIAT, BIHAR
RAJ BHAVAN, PATNA-800022

Letter No.-BSU(HC)-15/2018-...../GS(I), Dated-.....

From,

P.C. Choudhary
Officer on Special Duty (Judl.)

To,

Vice-Chancellors
All Universities of Bihar.

Sub.- Important Judicial Pronouncements in CWJC No.-10534/2017 regarding fixation of B.Ed. Course fee Rs. One Lakh fifty thousand.

Sir,

Please find enclosed herewith copy of Judgement and Orders in Civil Writ Jurisdiction Case No.-10534/2017 pronounced by the Hon'ble Patna High Court, Patna for further necessary action for compliance of the aforesaid order.

Yours faithfully,

Sd/-

Officer on Special Duty (Judl.)

Memo No.-BSU(HC)-15/2018-²⁰¹⁹...../GS(I), Dated-³⁰⁻⁰⁷⁻²⁰¹⁸.....

Copy forwarded to Shri R. K. Giri, Learned Advocate / Shri Bijay Kumar, Tech. Director, Raj Bhavan, Patna with request to upload on the Website of Raj Bhavan / Guard File for information and necessary action.


Officer on Special Duty (Judl.)

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10534 of 2017

1. Secretary, Prakash B. Ed. Teachers Training College. Chetan, Chhapra Baniyapur, P.S.- Baniyapur, District- Saran at Chhapra.
2. Ramnath Singh, aged about 58 years, S/o Late Rameshwar Singh, Secretary, Prakash B. Ed. Teachers Training College, Chetan, Chhapra Baniyapur, P.S.- Baniyapur, District- Saran at Chhapra.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. J.P. University, Chhapra through its Registrar, J.P. University, At+ P.S. and District- Chhapra.
3. The Vice- Chancellor, J.P. University, Chhapra.
4. Finance Officer, J.P. University, At+ P.S. and District- Chhapra.
5. The Chairman, University Grant Commission, Bahadur Sah Zafar Marg, New Delhi.
6. The Union of India, through Secretary of Human Resources Development Department Govt. of Bihar.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 12496 of 2017

1. Association Of Teachers Training College , Bihar registered Office NH 28, Silorh , Near Marwan Chowk, P.S.- Marwan, Distt.- Muzaffarpur through its President Dr. Uma Shankar Roy.
2. Dr. Uma Shankar Roy son of late Deo Narayan Roy Resident of 504, Angad Apartment, New Patliputra Colony, G.D. Mishra Patha, P.S.- Patliputra , District- Patna, Present President . Association of Teachers Training College, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Education, Government of Bihar, Patna.
2. The Principal Secretary, Department of Education, Government of Bihar, Patna.
3. The Joint Secretary, Department of Education, Government of Bihar, Patna.
4. The Director, Higher Education, Department of Education, Government of Bihar, Patna.
5. National Council of Teacher Education through its Member Secretary Hans Bhawan, Bahadur Sah Jafar Marg, New Delhi.
6. The Regional Director, Eastern Regional Committee, NCTE, Bhuwaneshwar , Orissa.
7. The Vice Chancellor, Tilka Manjhi University, Bhagalpur through its Registrar.
8. The Vice Chancellor, Bhim Rao Ambedkar Bihar University, Muzaffarpur through its Registrar.



... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 10534 of 2017)

For the Petitioner/s	Mr. Rajendra Prasad Singh, Sr. Adv Mr. Arun Kumar Mr. Manoj Kumar Singh Mr. Rajeev Kumar Singh Mr. Mukesh Kumar Singh
For the State	Mrs Shilpa Singh-GA-12
For the Chancellor	Mr. Rajendra Kumar Giri
For the UOI	Mr. S.D.Sanjay, Addl. Sol Gen
For the UGC	Mr. Deepak Kumar
For the University	Mr. Nagendra Kumar Singh
For the NCTE	Mr. Sunil Kumar Singh
(In Civil Writ Jurisdiction Case No. 12496 of 2017)	
For the Petitioner/s	Mr. P.K.Shahi, Sr. Advocate Mr. Manoj Kumar Singh
For the Union of India	Mr. S.D.Sanjay, Addl. Sol. Gen Mr. Deepak Kumar Mrs Piya Gupta
For the State	Mr. A.R. Pandey, AAG 15
For NCTE	Mr. Sunil Kumar Singh
For the University	Mr. Sandeep Kumar
For TMU	Mr Ashhar Mustafa

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

24 20-06-2018

The issue involved in the present writ applications is with respect to fixation of course fee which can be reasonably charged by the privately managed unaided teachers training institutions offering B.Ed. Course. The State Government had fixed the course fee at the rate of Rs. 50,000/- *per annum* per student. The B.Ed. Decree is a two-year course and accordingly, course fee for the said B.Ed Course was fixed by the State Government at Rs. 1,00,000/-. The fixation had been put to challenge on various grounds by these petitioners as, according to them, the fixation was on much lower side and with such



course fee, the institutions imparting B.Ed. Courses could not meet the requirements laid down by the National Council for Teacher Education(NCTE). These writ applications were earlier allowed by a judgment and order of this Court dated 09.11.2017, which would speak for itself.

2. In terms of the said judgment and order, a Committee was required to be constituted by the University Grants Commission under the relevant statutory provisions. Subsequently, it was noticed that the University Grants Commission (Regulation of Admission and Fees in Private Non-aided) Professional Institutions) Regulations, 1997, in the light of which the said judgment and order was passed, had already been repealed by subsequent decision of the University Grants Commission by 'Interim Policy Regulations, 2003', dated 10.06.2003, framed in exercise of powers conferred under Clause (i) of sub-Section (1) of Section 26 read with sub-Section (2) of Section 12-A of the University Grants Commission Act, 1956. Since the judgment and order, dated 09.11.2017, was passed in ignorance of the fact that the said 1997 Regulations stood repealed, on an application seeking review, made by the University Grants Commission, this Court had recalled the said order by order, dated 13.03.2018, passed in Civil Review No. 34



of 2018.

3. In view of recall of the said judgment and order, the present writ applications have been re-heard on merits. The effect of repeal of 1997 Regulations, with the coming into force of Interim Policy Regulations, 2003, has been taken note of in the order of this Court, dated 09.04.2018, which reads thus:-

“A counter affidavit has been filed on behalf of the University Grants Commission, through which, Interim Policy Regulations, dated 10.06.2003, framed in exercise of powers conferred under Clause (i) of sub-section (1) of Section 26 read with sub-section (2) of Section 12-A of the University Grants Commission Act, 1956, has been brought on record. The guidelines are said to have been issued in the light of the Supreme Court’s decision, in the case of **T. M. A. Pai Foundation v. The State of Karnataka and Others**, dated 31.10.2002.

It is disgusting to find from the said so-called ‘Interim Policy Regulations’, said to have been issued in exercise of statutory power that it discloses nothing, but vagueness in the matter of fixing of norms and guidelines for charging tuition and other fees.



This is to be kept in mind that under the impression that the University Grants Commission (Regulation of Admission and Fees in Private Non-aided Professional Institutions) Regulations, 1997, was in vogue, a judgment was delivered on 09.11.2017, which came to be subsequently recalled after filing of civil review application, being Civil Review No. 34 of 2018, by the University Grants Commission, in which a clear stand was taken that the said 1997 Regulations were not in operation after having been replaced by the present Interim Policy Regulations.

It is evident from the statement of background in the 2003 Interim Policy Regulations that the University Grants Commission, in 2003, was considering revision of University Grants Commission Regulations in respect of fees and admissions. But till new Regulations were framed, it was decided to supersede all existing provisions by the Interim Policy Regulations. There is nothing in the Interim Policy Regulations, which can be said to be 'provision' for fixing of fees etc. to be charged by the unaided colleges imparting B. Ed. Education. Since the



matter is of immense importance and touches policy matters on the training of teachers, the Court requests the Additional Solicitor General for India to assist this Court on behalf of the University Grants Commission.

List these cases, under the same heading, on 10th April, 2018.”

(Emphasis is mine)

4. Evidently, after coming into force of the Interim Policy Regulations, 2003, none of the functionaries, namely, the University Grants Commission, the National Council for Teacher Education, the State of Bihar, the Universities, were having any definite mechanism to fix the course fee of the course in question.

5. When this matter was earlier taken up on 02.05.2018, in the above background, it was argued on behalf of the petitioners emphatically that if the institutions were to be run in conformity with the provisions contained in National Council for Teacher Education (Recognition, Norms and Procedure) Regulations, 2009 (hereinafter referred to as '2009 Regulations'), it would be impossible for them to run the institutions with the course fee of Rs. 1,00,000/- for two-year B.Ed. Degree course. My attention was drawn to Clause-5 of



Appendix-4 of 2009 Regulations, which lays down, *inter alia*, the norms and standards for bachelor of education programme leading to B.ED Degree. Pointing out the said provisions, it was submitted that for running the course in a recognized institution, minimum number of faculty members has been prescribed with their requisite qualifications, who are to be paid their salary in conformity with the University Grants Commission norms. Clause 6 of Appendix-4 to the 2009 Regulations, which discusses the infrastructure, which teachers training institutions offering B.Ed. Programme, must maintain was also required to be maintained, they have pleaded. Their specific plea in the backdrop of the above that no such exercise had been undertaken, taking into account the requirement under Clause 5 and 6 of Appendix-4 to 2009 Regulations, before fixing the said course fee of Rs. 1,00,000/- for the two-year B.Ed. Course.

6. When the matter was taken up on 27.04.2018, Mr. S. D. Sanjay, learned Additional Solicitor General, had brought to my notice a letter written by the Secretary of the University Grants Commission, addressed to him, to the following effect:-

“With reference to your letter dated 19.04.2018 on the above mentioned subject, this is to inform that legal advice was sought in the matter



regarding CWJC10534/2017 wherein the Hon'ble Patna High Court vide its order dated 17.04.2018 has expressed its displeasure over inaction on the part of UGC as well as Union of India regarding non-formulation of any regulatory framework related to fee to be charged by non-aided private institutions.

Since the subject in question is of complex nature and requires a thorough study of the various judgments delivered in this regard by the Hon'ble Supreme Court as well as other Hon'ble Courts and the practices being followed in various States. UGC has constituted a Committee of Experts to look into the various aspects of the matter with the following terms of reference.

- i. The various judgments passed by Hon'ble Supreme Court and other Hon'ble Courts across the country on the issue.
- ii. The feasibility of regulatory framework in this regard to be formulated by UGC in the present context.
- iii. To formulate the necessary guidelines/regulations in this matter, if so required.



The Committee will submit its report in three month's time. The above information is submitted for your kind perusal and accordingly Hon'ble Patna High Court may please be apprised on next hearing date i.e. 27.04.2018.”

(Emphasis is added)

7. The Court had noticed from the above-noted communication of the University Grants Commission that it has merely constituted a committee, that too, in the light of the orders of this Court dated 17.04.2018 only, for examining various judgments of the Supreme Court and other Courses and feasibility of a regulatory framework in this regard to be followed by the University Grants Commission and to formulate necessary guidelines/regulations in this matter, if so required. Before I proceed further, I must notice a Division Bench decision of this Court in the case of **Mirza Galib Teachers Training College and others Vs. The State of Bihar and others**, reported in **2017 (1) PLJR 256** and other analogous cases. In the said batch of writ applications “Regulation and Ordinance for Admission” in two-year Bachelor of Education(Secondary Programme) under the Universities of Bihar published under the orders of the Chancellor, Universities of Bihar in exercise of power under Section 38(4) and 39(2) (ii)



of the Bihar State Universities Act, 1976 and similar provisions under the Patna University Act, 1976, was put to challenge to the extent it laid down the procedure for admission to unaided privately managed professional minority and non-minority institutions and the fee structure, on the basis of which the students were to be charged their tuition and other incidental fees by such institutions. The Division Bench upheld the provisions under the Regulations to the extent they related to laying down the procedure for admission through combined entrance test. Under the said Ordinance, course fee of two-year B.Ed Course was fixed at Rs.95,000/- though it contemplated that the said fee was provisional. There was stipulation that the Government would constitute a State Level Committees in future for deciding the fees for the said course, as per the guidelines of the UGC Regulations, 1997, within three months and the decision of the State Level Committee in respect of the fees shall be binding on/for such professional institutions. The Division Bench, considering the challenge of provisional fixation of fee by making provisions in the Ordinance, had called for the original records dealing with such fixation when it came to learn that there was no material available on record which could be said to be the basis for arriving at the said fee structure. The Division



Bench, sustaining the challenge to fee fixation for B.Ed. Course held in paragraph 79,80 and 81 in case of **Mirza Ghalib T.T.College vs. State of Bihar** (supra) as follows:-

“79. We, however, from the original records have not been able to make out as to whether while fixing fee of Rs. 95,000/- for two years B.Ed. Programme, the factors, as prescribed in Clause 3.4 of the norms and standards, laid down by the NCTE, had been taken into account. As has been indicated above, the Supreme Court, in case of **Modern Dental College** (supra), has held that for fixing the fee structure, factors, like infrastructure and facilities, investment made, salaries paid to the teachers and staff and future plans for expansion and/or betterment for institution, are to be kept in mind, subject to two restriction namely, non-profiteering and on-charging for capitation fee.

80. We do not find any material on record, which can demonstrate that these considerations had been kept in mind while deciding the fee structure and any adequate exercise was at all done in this direction.

81. We are mindful of the fact that it



has been mentioned in the letter, dated 2.9.2015, through which the Regulation/Ordinance is being sought to be implemented that the said fee structure has been fixed provisionally and a State Level Committee is proposed to be constituted for deciding the fee structure. Since we do not find any material basis on record for arriving at the fee structure, as prescribed, we intend to hold the said fixation of fees, which has been made a part of the Ordinance itself, to be without any basis and, therefore, unsustainable.”

8. The State Government thereafter fixed Rs. 1,00,000/- as maximum course fee for two-year B.Ed. Course through a notification dated 14.03.2016, issued by the Education Department, Govt. of Bihar, which is under challenge in the present writ applications. As has already been noted, this Court, primarily, relying on Regulation 7 of the University Grants Commission(Regulation of Admission and Fees in Private Non-aided Professional Institutions) Regulation, 1997, had held the decision of the State Government to be infirm, being not in conformity with the said 1997 Regulations. The University Grants Commission thereafter filed a review application giving



rise to Civil Review No. 34 of 2018 with a plea that by way of Interim Policy Regulations, 2003, framed in exercise of power under Clause (i) of sub-section (1) of Section 26, read with sub-section (2) of Section 12-A of the University Grants Commission Act, 1956, 1997 Regulations were not operating. The Interim Policy Regulations, it was said, was issued in the light of the Supreme Court decision in the case of **T.M.A. Pai Foundation Vs. The State of Karnataka and others**, reported in (2002) 8 SCC 481. Since this Court's judgment dated 09.11.2017 was passed under the impression that the University Grants Commission (Regulation of Admission and Fees in Private Non-aided Professional Institutions) Regulations, 1997 was in vogue, in view of the stand on behalf of the University Grants Commission that that stood superseded with the coming into force of Interim Policy Regulations dated 10.06.2003, this Court had recalled the judgment and order dated 09.11.2017, allowing the review application.

9. These cases have thus been placed for re-hearing on merits. When these matters were taken up on 09.04.2018, this Court expressed strong displeasure over the manner in which the University Grants Commission was functioning in the matter of laying down any Policy/Guideline for fixation of fee in the Non-



aided Professional Institutions. This Court made the following observations on 09.04.2018:-

“A counter affidavit has been filed on behalf of the University Grants Commission, through which, Interim Policy Regulations, dated 10.06.2003, framed in exercise of powers conferred under Clause (i) of sub-section (1) of Section 26 read with sub-section (2) of Section 12-A of the University Grants Commission Act, 1956, has been brought on record. The guidelines are said to have been issued in the light of the Supreme Court’s decision, in the case of **T. M. A. Pai Foundation v. The State of Karnataka and Others**, dated 31.10.2002.

It is disgusting to find from the said so-called ‘Interim Policy Regulations’, said to have been issued in exercise of statutory power that it discloses nothing, but vagueness in the matter of fixing of norms and guidelines for charging tuition and other fees.

This is to be kept in mind that under the impression that the University Grants Commission (Regulation of Admission and Fees in Private Non-aided Professional Institutions) Regulations,



1997, was in vogue, a judgment was delivered on 09.11.2017, which came to be subsequently recalled after filing of civil review application, being Civil Review No. 34 of 2018, by the University Grants Commission, in which a clear stand was taken that the said 1997 Regulations were not in operation after having been replaced by the present Interim Policy Regulations.

It is evident from the statement of background in 2003 Interim Policy Regulations that the University Grants Commission, in 2003, was considering revision of University Grants Commission Regulations in respect of fees and admissions. But till new Regulations were framed, it was decided to supersede all existing provisions by the Interim Policy Regulations. There is nothing in the Interim Policy Regulations, which can be said to be 'provision' for fixing of fees etc. to be charged by the unaided colleges imparting B. Ed. Education. Since the matter is of immense importance and touches policy matters on the training of teachers, the Court requests the Additional Solicitor General for India to assist this Court on behalf of the University Grants



Commission.

List these cases, under the same heading, on 10th April, 2018.”

10. Indifference on the part of the University Grants Commission was noticed again on 17.04.2018 also, when these matters were taken up for hearing.

11. In the background of above-noted facts, since the time was running out and the decision of the State Government to fix course fee at Rs. 1,00,000/- for two-year B.Ed Course per student was not appearing to be based on any reasonable exercise undertaken in the light of the statutory provision, this Court considered the desirability of passing appropriate order in this regard, so that there may not be any space for uncertainty. These writ applications were filed on 25.07.2017 and 29.08.2017 and relate to the academic sessions beginning from 2016-17 onwards. In course of hearing of these cases on 02.05.2018, my attention was drawn on behalf of the petitioners to the fee being charged by one of the minority institutions, namely, St. Xavier's College of Education, Digha, Patna, for running B.Ed. Course at the rate of Rs. 1,70,000/-. A plea was taken that the said fee is reasonable and can be treated as a benchmark for the purpose of fixation of course fee of other privately managed unaided



institutions. This Court, in the order dated 02.05.2018, recorded that it did not have any judicially determinable parameter to arrive at a definite conclusion that the course fee, which was being charged by the St. Xavier's College of Education, Digha, Patna, was reasonable. At the same time, observed that reasonableness or otherwise of the course fee, fixed by the State Government, under challenge, could not be gone into in a proceeding under Article 227 of the Constitution of India. The Court, however, was of the definite view that respondents, before fixing the course fee, had not dealt with the mandatory requirements for running the B.Ed. Course, as prescribed under Appendix-4 to the 2009 Regulations. The court noticed that the University Grants Commission was not in a position to constitute a Committee for the purpose of determination of the course fee, nor it appears that the State Government had any mechanism or existing Committee to determine the amount, by way of an interim measure, till final decision was taken by the competent authority viz. the University Grants Commission or the State Government. The Court was, thus, left with no other option and considered it appropriate, for the purpose of examining the reasonableness of the decision of the State Government, in the matter of fixation of course fee, to constitute a Committee.



Paragraphs 13 and 14 of this Court's order dated 02.05.2018 are relevant which are being reproduced hereinbelow:-

“13. Since the University Grants Commission is not, for the present, in a position to constitute a committee for the purpose of determination of course fee nor it appears that the State Government has any mechanism or existing committee to determine the amount, by way of an interim measure, till final decision is taken by the competent authority, i.e. the University Grants Commission, or the State Government, the Court, for the purpose of examining the reasonableness of the decision of the State Government in the matter of fixation of course fee, considers it appropriate to constitute a committee. The function of the committee shall be confined to determination of expenses to be incurred by teachers training institutions offering courses leading to B. Ed. Degree, if such institutions are to fully comply with the requirements under Clauses 5 and 6 of Appendix-4 to the 2009 Regulations. In Court's opinion, so far as the expenses of academic faculty is concerned, it is going to be mathematical exercise, once the pay scale, admissible to faculty members as prescribed by the University Grants



Commission, is available. The Committee, so constituted, will thereafter examine Clause 6 of Appendix-4 of 2009 Regulations for the purpose of reaching just determination of a course fee. The Committee may also keep in mind the course fee, which, according to Mr. Shahi, learned Senior Counsel, is reasonable and which is being charged by one of the oldest teachers' training college in the State of Bihar, as has been indicated above.

14. This order is being passed and committee is being constituted with the consent of the parties in the interest of justice, which shall have following members:-

1.	The Principal Secretary to Governor of Bihar (Chancellor of the Universities of Bihar), Patna	Convener
2.	Mr. Robert L. Chongthu, Secretary, Department of Education, Government of Bihar, Patna	Ex-Officio Member
3.	Vice-Chancellor, Aryabhata Knowledge University, Patna	Ex-Officio Member
4.	Vice-Chancellor, Nalanda Open University, Patna	Ex-Officio Member
5.	One Officer, not below the rank of Deputy Accountant General, to be nominated by the Principal Accountant General (Audit), Bihar, Patna	Ex-Officio Member



12. After having constituted the said Committee, the Court expected the Committee, so constituted to take into account the following for the purpose of assessment of fair tuition fee:-

“(a) Salary and allowances including bonus, if admissible, payable to teaching and non-teaching employees;

(b) expenditure on administrative services;

(c) cost of maintenance of laboratories including consumables;

(d) contingent expenditure including statutory requirements like audit fee, and the like;

(e) cost of acquisition of books and journals for libraries;

(f) maintenance of buildings and other assets including rents and tariffs; and any other recurring expenditure to be determined by the competent authority, from time to time.”

13. The Court further observed that it will be open to the Chancellor, Universities of Bihar, to suggest and seek reconstitution of the Committee, constituted by the said order, if required. The Court, in addition, made the following observations in paragraphs 20 and 21 of the order dated



02.05.2018:-

“20. There must not be any confusion that an institution can claim course fee on the basis of the requirements laid down under Appendix-4 to the 2009 Regulations only if the institution is fully complying with the said requirements. So that the exercise is carried out smoothly, it is directed that all such institutions, which feel aggrieved with the decision of the Government of fixation of course fee of Rs. 1,00,000/-, shall be obliged to disclose on their web portal the details of the faculty members with their names, respective qualifications disclosing their eligibility to hold the post and designation, as also the pay scale, on the basis of which payments are made to the faculty members, which they are getting from such institutions.

21. Needless to say that in order to substantiate that the faculty members are being paid, at least, as per the University Grants Commission norms, the institutions shall be required to make payment in the respective bank accounts of the faculty members only, in a transparent manner.”

14. Subsequently, on an application filed on behalf of the Principal Accountant General (Audit), Bihar, seeking modification of this Court's order dated 02.05.2018 for minor change in the constitution of the Committee whereafter in place



of an officer, not below the rank of Deputy Accountant General, to be nominated by the Principal Accountant General, as member of the Committee, Mr. Ainul Haque, a retired Indian and Accounts Services, was made member of the Committee.

15. In compliance of the order dated 02.05.2018, the Committee undertook and completed the exercise.

16. Mr. Rajendra Giri, learned counsel, appearing on behalf of the Chancellor, Universities of Bihar, informs this Court that the Committee, on consideration of recurring expenditure of the B.Ed. Colleges and taking into account the salary payable to the teaching and non-teaching employees, has found a sum of Rs. 1,36,840/- to be reasonable fee to be charged for two-year B.Ed. Course by such Colleges. It has transpired from the proceedings of this Court that a representative of the Association of the privately managed unaided B.Ed. Colleges was allowed to participate in the proceeding of the Committee.

17. Learned Senior Counsel, appearing on behalf of the parties, do not raise any objection to the fixation of the said course fee, except by raising a grievance that the Committee has failed to take into account the element of 'expansion of education for the future generation' for which a reasonable surplus is required to be generated. It has been argued that



though profiteering and commercialization of education cannot be allowed, a surplus of profit should be allowed to be generated, to be used for the benefit of the educational institutions.

18. I have perused the fixation of fee structure for the B.Ed. Course carried out by the Committee constituted by this Court. It appears to have taken into account the fee structure of St. Xavier's College of Teacher Education, Patna also. Following is the table which the Committee has prepared for fixation of the course fee:-

Table showing total fee structure per student for full two years course to be charged by B.Ed. Colleges (Figures in Rupees)

Sl. No.	Fee structure of the State Government	Fee structure of St. Xavier's College of Teachers Education, Patna	Proposed fee structure of the Committee
(a)	86,950.00	1,33,920.00 (i) For one Principal and 15 faculty: Rs.57,9000/- (consolidated per teacher per month (ii)Rs.75,000/ (consolidated for one Principal (iii)Rs.20000/- (consolidated) per non-teaching staff	1,22,790.00 (i) For 15 teachers: As per existing UGC norms prevalent in the Universities and Colleges of Bihar, Basic salary Rs.15,600+AGC Rs.6000+142% current DA (ii) For Principal: Rs.75000/- (fixed) including DA. (iii) For 08 non-teaching staff: Rs.20000/- (fixed)



			including DA (iv) Staff welfare: Rs.500/- per student.
(b)	2200/-	8080/-	2500/-
(c)	1000/-	2500/-	1000/-
(d)	3450/-	5400/-	3450/-
(e)	2100/-	4600/-	2100/-
(f)	4300/-	15500/-	5000/-
Total	1,00,000/-	1,70,000/- It includes 70%,i.e, 1,19,000/- as recurring expenditure; 30%,i.e.,51000/-as development fee	1,36,840/-

19. I find substance in the submissions made on behalf of the petitioners that the element of “development fee” or “future expansion” is missing while proposing the fee structure for the privately managed unaided teachers training colleges. It transpires that the said St. Xavier’s College of Teacher Education, Patna is charging 51,000/- per student as development fee, which is “30% of recurring expenditure”.

20. In the case of **Modern School Vs. Union of India**, reported in (2004) 5 SCC 583, the Supreme Court had upheld the direction of the Delhi High Court for setting up of a Committee to examine as to whether the fee charged by the school was excessive or not. Discussing the ratio laid down by the Supreme Court in the case(s) of **T.M.A. Pai Foundation**



(supra) and **Islamic Academy of Education and another Vs. State of Karnataka and others**, reported in (2003) 6 SCC 697[:2004(1) PLJR (SC) 176], the Supreme Court held in **Modern School** case (supra) that the fee structure must be fixed keeping in mind the infrastructure and facilities available, investment made, salaries paid to the teachers and the staff, 'future plans for expansion' and/or for betterment of the institutions, subject to two restrictions/conditions namely non-profiteering and non-charging of capitation fee. It held in paragraph 16 that the following considerations are to be kept in mind for fixing the fee structure namely:-

- “(a) the infrastructure and facilities available,
- (b) investment made, salaries paid to the teaches and staff and
- (c) future plans for expansion and/or betterment of institution, subject to the aforesaid two restrictions, namely, non-profiteering and non-charging of the capitation fees.”

21. In the facts above-noted and with the consent of the learned counsel representing the petitioners, it is observed that the privately managed unaided teachers training institutions offering B.Ed. Course may charge a maximum amount of Rs.



13,160/- as development fee for the said two-year B.Ed. Course and, thus, the total maximum course fee for two-year B.Ed. Course to be charged by the privately managed unaided teachers training institutions shall not exceed Rs. 1,50,000/-.

22. Mr. Giri, learned counsel on behalf of the Chancellor, has submitted that a sum of Rs. 5000/- as development fee for two years would be a reasonable amount. It has already been noted that one of the B.Ed. Colleges is charging Rs. 51000/- against the development fee and, in that background, the Court is not inclined to accept the suggestion of Mr. Gri, learned counsel for the Chancellor.

23. It is indicated, however, in view of the decision in the case(s) of **T.M.A. Pai Foundation** (supra) and **Islamic Academy of Education** (supra) noticed in the case of **Modern School** (supra), the surplus/profit generated by charging development fee, shall be essentially used for the benefit of that educational institution and the said profit/surplus cannot be diverted for any other use or purpose and cannot be used for personal gains or for other business or enterprise. The course fee to be charged under the present order will be applicable for the academic session 2016-17 onwards and shall continue till final fixation of course fee is done by the competent authority, in



accordance with law.

24. While parting with this order, I observe that it is high time when the respondents shall take earnest measures to ensure final fixation of course fee for the B.Ed. Course, in an objective manner in accordance with law.

25. Both the writ applications stand disposed of with the aforesaid observations/directions.

(Chakradhari Sharan Singh, J)

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