

**In the High Court at Calcutta**

**Civil Appellate Jurisdiction**

**Appellate Side**

**The Hon'ble Mr. Justice Sabyasachi Bhattacharyya**

**And**

**The Hon'ble Mr. Justice Supratim Bhattacharya**

**M.A.T. No. 268 of 2026**

**IA No: CAN 1 of 2026**

***Tanushri Mondal and Others***

***Versus***

***The State of West Bengal and Others***

***With***

**F.M.A. No. 284 of 2026**

**IA No: CAN 1 of 2026**

***Gourab Kumar Sadhu and Others***

***Versus***

***The State of West Bengal and Others***

***With***

**F.M.A. No. 288 of 2026**

**IA No: CAN 1 of 2026**

***Debajyoti Dey and Others***

***Versus***

***The State of West Bengal and Others***

For the appellants

: Mr. Pratik Dhar, Sr. Adv.,  
Mr. Sarwar Jahan,  
Mr. Shamim Ul Bari

For the respondent nos.13 & 14  
in MAT 268 of 2026,  
respondent nos. 14 & 15 in  
FMA 284 of 2026 and  
respondent nos.13 &14 in  
FMA 288 of 2026

: Mr. Tanoy Chakraborty,  
Mr. Chhandak Dutta

For the  
Dr. B.C. Roy Engineering College

: Mr. Kamalesh Bhattacharya,  
Ms. Rama Halder

For the State in  
MAT 268 of 2026

: Ms. Tapati Samanta

Heard and reserved on

: 16.03.2026

Judgment on

: 23.03.2026

**Sabyasachi Bhattacharyya, J.:-**

1. The present three appeals arise out of the judgment dated January 15, 2026 whereby three writ petitions, preferred by the appellants herein, were dismissed on contest.
2. The writ petitioners/appellants are students of Dr. B.C. Roy Engineering College (respondent no. 10), which is affiliated to the Maulana Abul Kalam Azad University of Technology (MAKAUT) (respondent no. 7).
3. The West Bengal Joint Entrance Examinations (WBJEE) were held for the year 2023 on April 30, 2023. The results thereof were declared on May 26, 2023. The JEE-Main results were also declared separately. The candidates were ranked in order of merit in respect of both the examinations, the scores of which were accepted for admission to the West Bengal Engineering Colleges under the WBJEEB Counselling.

- 4.** The WBJEE Centralised Counselling was conducted by the WBJEEB between the months of July and August, 2023. Upon online registration and payment of counselling fee, the candidates filled up their choice, disclosing their respective college and branch preferences. Thereafter, centralised seat allotment was done by applying the merit-cum-preference mode, whereupon seat acceptance took place and fees were paid online. The candidates physically reported to the allotted colleges and, upon document verification by the said colleges respectively, the admission process was completed and the fees were deposited.
- 5.** All the present appellants took admission in the B. Tech courses for the Batch: 2023-2027 at Dr. B.C. Roy Engineering College, Durgapur between July 31, 2023 and September 16, 2023, depositing the entire course fees for different semesters at the rate as published by the College during the admission process.
- 6.** The First Semester classes commenced and the academic session for the year 2023-24 began in the month of September, 2023. The appellants attended their respective classes and commenced studies. Registration with the University (MAKAUT) started on October 3, 2023 after the admission was finalized, fees were paid and documents were verified and the appellants physically reported to and commenced classes at the respondent no. 10-College.
- 7.** All on a sudden thereafter, by a Notification dated October 16, 2023, the fee structure was hiked with effect from the 2023-24 academic session. Consequentially, the respondent no. 10-College issued a notice to its

students demanding revised fees at the enhanced rate from the January, 2024 Semester onwards, relying on the October 16, 2023 Notification.

- 8.** Being thus aggrieved by the Notification dated October 16, 2023 and the Notice issued by the College demanding revised fees dated December 15, 2023, the appellants preferred three writ petitions, which were dismissed by the impugned judgment, giving rise to the present appeals.
- 9.** Learned senior counsel for the appellants in all the matters argues that the impugned Notification is violative of Regulation 7(7) of the All India Council for Technical Education (Norms and Guidelines for Fees and Guidelines for Admissions in Professional Colleges) Regulations, 1994 (for short, “the 1994 Regulations”). In the said provision, it is envisaged that a professional college shall send intimation to the Competent Authority in advance about the fees chargeable for the entire course commencing from the academic year for which admissions shall be made. The total fees shall be divided into the number of years or the number of semesters of study for a course, as the case may be. In the first instance, as per the said provision, fees only for the first year or semester shall be collected and the fee chargeable by the professional college shall be subject to the ceiling fixed by the Standing Committee.
- 10.** Regulation 7(1) provides that tuition and other fees for a professional college shall be determined by a State Level Committee.
- 11.** By stressing on the expressions “in advance” and “entire course” used in the above provision, learned senior counsel argues that the enhancement of the fee structure, if any, has to be made before the commencement of

the academic session. Moreover, the fee structure cannot be divided into fees for different semesters or years, due to the use of the expression “entire course”.

- 12.** It is pointed out that in the fee structure published prior to the admission process of the appellants for the session 2023-2027, the entire fee for the entire course was enumerated. The admission fee of Rs. 5,000/- was fixed as a one-time payment. Thus, the concept of the fee structure pertained to a consolidated block of the entire course fee chargeable for the session 2023-2027 and could not be sub-divided into various semesters. Hence, it is argued that the mid-session enhancement of fees from January, 2024 was contrary to the initial fee structure as well as to Regulation 7(7) of the 1994 Regulations.
- 13.** Again, on the second page of the original fee structure, it was mentioned that the fee structure is subject to change from time to time as per the Government decisions. However, it is argued that the expression “from time to time” has to be read in the context of Regulation 7(7) as well as the language of the impugned Notification enhancing the fees. The word “structure”, it is argued, refers to the entire consolidated fee structure as a whole, not leaving any scope for segregation of fees chargeable for different semesters/years. In support of such contention, learned senior counsel for the appellants cites the dictionary definitions of the terms “entire”, and “structure”, featuring in the original fee structure.
- 14.** Learned senior counsel next argues that the impugned Notification dated October 16, 2023 categorically provides that the revised fees shall be

applicable for students “to be admitted” in the first year of the respective courses, thus excluding, by necessary implication, the students who had already taken admission. Moreover, the effect of the Notification has been given from the date of the Notification itself, thus shutting out any retrospective operation of the same with regard to the students who have already taken admission for the concerned session in terms of the original fee structure declared by the respondent no. 10-College.

- 15.** It is argued by the appellants that the decision-making process in selection of colleges on the part of the successful candidates is dependent not only on the ranking but, based on the ranking, also on the financial capacity of their families to support education in the chosen college. Thus, even if a candidate secures a higher position on the merit list, entitling him or her to admission in a better college, it often so happens that due to financial constraints of the candidate’s family, he or she is constrained to select a college of less repute which charges less fees. Thus, the aspirations of the candidates are governed by several factors, including their financial capacity, and do not depend solely on their ranking in the merit list. Hence, upon the college having declared a fee structure and the students having exercised their option of college accordingly and paid such fees in terms of the said structure and on the admission process being already concluded, substantive rights have accrued in favour of the said students, which cannot be taken away retrospectively, as contended to have been done by the impugned Notification dated October 16, 2023.

- 16.** Learned senior counsel appearing for the appellants makes it clear that the appellants do not have any qualms about the college authorities, in consonance with the State's directive, enhancing the fee structure; but the said enhancement must necessarily be applicable only to future admissions and not to admissions which have already been taken.
- 17.** Learned senior counsel cites, in support of his arguments, *Islamic Academy of Education and Another v. State of Karnataka and Others*, reported at (2003) 6 SCC 697, and *P.A. Inamdar and Others v. State of Maharashtra and Others*, reported at (2005) 6 SCC 537, primarily for the proposition that the enhancement in fee structure has to be undertaken only upon the designated committee taking a decision thereon and cannot be done unilaterally by the respective colleges or Universities.
- 18.** Learned senior counsel cites the judgment of a learned Single Judge of the Uttarakhand High Court dated January 8, 2025 in *Writ Petition (M/S) No.513 of 2020 [Bindiya Khatri and others. Versus State of Uttarakhand & Others.]* where the Uttarakhand High Court held that fee determination can be applied only prospectively and students who took admission in previous academic years cannot be asked to pay the enhanced fee determined by the Committee in subsequent years.
- 19.** Thus, it is submitted that the learned Single Judge failed to take into consideration the above aspects of the matter in the present case in dismissing the writ petitions.
- 20.** Learned counsel for the respondent no. 10-College argues that since some of the present appellants have already paid the enhanced fees in

terms of the impugned Notification, they ought not to be permitted to resile from such position and challenge the revised fee structure. Having acquiesced to the revised fee structure and complied with the consequential notice of the college authorities to that effect, the appeals are not maintainable at the behest of the said candidates.

- 21.** Learned counsel further argues that a substantial number of students have already paid the enhanced fees, thereby acquiescing to the enhanced fee structure. For example, in the Engineering Course, out of about 652 students who have taken admission, 353 have already paid fees at the enhanced rates whereas, for the Pharmacy Course, out of the total number of 306 students, 259 have already paid the enhanced amounts. Thus, the present appellants, who stand on similar footing as those students who have already paid the revised fees, ought not to be given any special privilege.
- 22.** Learned counsel next submits that from the affidavit-in-opposition filed in connection with the writ petition before the learned Single Judge, which will be evident that an Expert Committee was duly formed, which deliberated with all stakeholders and only thereafter, taking into account all parameters, including increasing teachers' salaries, infrastructural costs, etc., arrived at the revised figures of fees. It is argued that the said opinion of the experts, who are specialists in their own field, cannot be brushed aside or interfered with by the court merely for the asking.
- 23.** Learned counsel submits that the enhancement was due since long and the issue had been taken up with the Government several times by the

Association of Professional Academic Institutions (respondent no. 13). Initially, such request was refused in the year 2017 but subsequently, prior to the conclusion of the admission process of the present appellants, the issue was taken up again and a number of hearings given to all the stakeholders. Ultimately, the Expert Committee arrived at the revised figures. In view of the increasing expenses of the private colleges, it is argued that there was no illegality in the formulation of the revised fee structure in consonance with Regulation 7(7).

**24.** Learned counsel appearing for the other private colleges/respondents additionally contends, after adopting the argument of increasing expenses of the colleges, that Regulation 7(7) envisages merely intimation to be given to the Standing Committee in respect of the proposed revised fee structure prior to the academic session. However, there is no corresponding bar in the said Regulation or anywhere else in the 1994 Regulations mandating a decision to be taken by the authority on such intimation before the admission process is over. It is argued that the Court cannot read its own opinion into that of the Legislature, since the 1994 Regulations is a subordinate piece of delegated legislation within the contemplation of the All India Council for Technical Education Act, 1987 and has the force of law.

**25.** Insofar as *Bindiya Khatri (supra)*<sup>1</sup> is concerned, learned counsel argues that, as rightly observed by the learned Single Judge in the judgment impugned herein, the said decision was rendered under a different

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<sup>1</sup> ***Writ Petition (M/S) No.513 of 2020 [Bindiya Khatri and others. Versus State of Uttarakhand & Others.]***

statutory regime, being the Uttarakhand Professional Educational Institutions (Regulation of Admission and Fixation of Fee) Act, 2006. As noted in the said judgment, the said statute provides that fee determined by the Committee contemplated thereunder should be applicable to a student who takes admission in the same academic year in which the fee determination is made and the fee payable by such student shall not be revised till he/she completes its course. However, in the instant case, neither the Regulations nor the original fee structure notice incorporated any such clause.

**26.** As to the other two judgments, it is contended that those are not germane for the present consideration, as those were cited on the proposition that it is the designated Committee, and not the concerned college, which can revise the fee structure. It is not in contention here that the fee enhancement was done by the Standing Committee and not the college. Thus, the ratio laid down in the said judgment is not germane for the present adjudication.

**27.** Learned counsel appearing for the State places reliance on the relevant annexures to the affidavits-in-opposition filed to the writ petition to show that a Standing Committee was duly formed within the contemplation of Regulation 7 and it duly deliberated with all concerned before revising the fee structure. Learned counsel also places reliance on notices issued by the said Committee to the different stakeholders, upon which the decision to revise the fee and the revised fee structure was finalised. Thus, it is submitted that there was no infraction of Regulation 7(7) of

the 1994 Regulations. It is argued that it is not for the court to substitute its views for that of the experts. Thus, the appeal ought to be dismissed.

**28.** Thus, in the present case, the following questions come up for consideration:

- i) Whether Regulation 7(7) of the 1994 Regulations was violated;
- ii) Purport of the original fee structure framed by the respondent no. 10-College;
- iii) Whether the impugned Notification dated October 16, 2023 is applicable to already-admitted candidates.

**29.** The above issues are decided as follows:

**i) Whether Regulation 7(7) of the 1994 Regulations was violated**

**30.** Regulation 7 of the 1994 Regulations reads as follows:

***“7. Fee:--(1)** Tuition and other fees for a professional college shall be determined by a State Level Committee.*

***(2)** The Council shall constitute a standing Committee for each State to fix ceiling on the fees chargeable for individual courses by a professional college or class of professional colleges, as the case may be. The Standing Committee shall consist of the following members namely:-*

- (i) Vice-Chancellor of a University in a State, to be nominated by the State Government;*
- (ii) Secretaries, Department of Technical Education and Department of Finance of the respective State, ex-officio;*

- (iii) *Two economists or experts in cost accountancy with background of Institutional financing, to be nominated by the Council;*
- (iv) *Member-Secretary not below the rank of Joint Secretary or Director of the respective State Government, to be nominated by the State Government.*
- (3)** *The members referred to in clauses (i), (iii) and (iv) shall hold Office for a period of three years from the date of their nomination.*
- (4)** *The Committee shall give an opportunity to the professional colleges to place such material, as they think relevant in determining the tuition fee and other fees. The fees shall be fixed once in every three years or at such longer intervals, as the Committee may think appropriate.*
- (5)** *The fees chargeable in professional colleges shall be determined on the basis of estimation of expenditure of the professional college for its efficient functioning. The Committee shall take the items specified in the Annexure to these regulations, into account while determining the tuition fee and other fees to be charged by a professional college. The Committee may in its discretion take into consideration a reasonable return on Capital investment with reference to the investment made and determine the fees accordingly. While calculating the fees, the estimates of recurring expenditure shall be based on at least the last two years audited figures of recurring expenditure of the college and projected requirement for next three years.*
- (6)** *No professional college shall be entitled to receive from the student any other payment or amount, under whatever name it may be called, in addition to the fee fixed by the Committee for a free seat or payment seat.*
- (7)** *A professional college shall send intimation to the competent authority in advance the fees chargeable for the entire course commencing from the academic year for which admissions shall be made. The total fees shall be divided into the number of years, or as the case may be, the number of semesters of study for a course. In the first instance, fees only for the first year or semester shall be collected.*

*The fee chargeable by a Professional College shall be subject to the ceiling fixed by the Standing Committee.”*

- 31.** As per Clause (1) of Regulation 7, tuition and other fees for a professional college shall be determined by a State Level Committee, the composition of which is stipulated in Clause (2) and the tenure of the office bearers thereof in Clause (3).
- 32.** Clause (4) of Regulation 7 provides that the Committee shall give an opportunity to professional colleges to place such material as they think relevant in determining the tuition fee and other fees which shall be fixed once in every three years or at such longer intervals, as the Committee may think appropriate.
- 33.** Clause (5) provides the parameters for fixation of such fees whereas Clause (6) of Regulation 7 precludes professional colleges from receiving from the students any other payment or amount, under whatever name it may be called, in addition to the fee fixed by the Committee for a free seat or “payment” seat.
- 34.** Clause (7), as rightly argued by the appellants, clearly contemplates revision of the fee structure for the entire course to be made at a time. Although the total fees, as per the said provision, may be divided into number of years or semesters of study for a course, as the case may be, fees only for the first year or semester shall be collected at the first instance, subject to the ceiling fixed by the Standing Committee, which is in the nature of a regulatory provision to curb arbitrary charging of fees by the professional colleges.

- 35.** In Clause (7) of Regulation 7, an advance intimation, prior to the commencement of the academic course-in-question is envisaged. Conspicuously, however, the said provision relates to an “intimation” to be given by the concerned college to the competent authority in advance but does not fix any time limit whatsoever for a decision to be taken by the Standing Committee/competent authority in respect of such proposal by the college. Thus, the premise of the appellants’ arguments that the impugned Notification dated October 16, 2023 is violative of Regulation 7(7) is not tenable in the eye of law. As is evident from the materials before the Court, intimation in the present case was given well before the commencement of the session, although the revised fee structure came post-commencement.
- 36.** It is well-settled that where the provision of a legislation/subordinate legislation/delegated legislation is clear and unambiguous, as in the present case, there cannot be any scope of purposive interpretation. Doing so, despite the provision itself being clearly restricted to an intimation, as opposed to a final decision on the fee structure revision, would tantamount to imposing the opinion of the court upon that of the legislator, which is not permissible in interpretation of statutes, be it primary or delegated. Thus, since the intention of the legislation is clearly reflected in Regulation 7(7) itself, being to restrict the advance nature of the provision to an intimation and not to a decision on the fee structure revision, the court cannot read into the said provision the

concept of the revised fee structure itself being required to be revised notified prior to commencement of the academic session.

- 37.** The Hon'ble Supreme Court, in *Islamic Academy of Education (supra)*<sup>2</sup> and *P.A. Inamdar (supra)*<sup>3</sup>, was pleased to adjudicate on whether educational institutions are entitled to fix their own fee structure, in which context it was held that it is the committee assigned with such function which is to fix the fees and once fees are thus fixed, the institute cannot charge either directly or indirectly any other amount over and above the amount fixed as fees, under whatever head or guise.
- 38.** It was further clarified in the said judgments that unless the admission procedure and fixation of fees is regulated and controlled at the initial stage, the evil of unfair practice of granting admission to available seats guided by the paying capacity of the candidates would be impossible to curb. Professional education, it was held, should be made accessible on the criterion of merit and on non-exploitative terms to all eligible students on a uniform basis and the educational institutions have an obligation and a duty to maintain requisite standards of professional education by giving admission based on merit and making education equally accessible to eligible students through a fair and transparent admission procedure and based on a reasonable fee structure.
- 39.** In the present case, the added respondents in the writ petition (private colleges/educational institutions), along with their affidavits-in-

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<sup>2</sup> *Islamic Academy of Education and Another v. State of Karnataka and Others*, reported at (2003) 6 SCC 697

<sup>3</sup> *P.A. Inamdar and Others v. State of Maharashtra and Others*, reported at (2005) 6 SCC 537

opposition, annexed sufficient papers to indicate that due procedure as envisaged under Regulation 7 of the 1994 Regulations was complied with by the Standing Committee as well as the State. Initially, *vide* Notification No. 425-Edn/T) 10M-04/2004 (Pt.IV) dated July 10, 2017, the State, through the Governor, had refused to enhance the ceiling limits of tuition fees in respect of undergraduate Engineering and Technology, Pharmacy and Architecture courses conducted by Self-financing Engineering and Technology/Pharmacy/Architecture colleges for the academic session 2016-17. It is found from the notification contained in Memo No. 170(T) dated February 15, 2023 that the Director of Technical Education, Government of West Bengal directed several institutions, including the respondent no. 10-College, to attend a meeting for observation of the procedure followed by the Expert Committee constituted by the Higher Education Department for formation of a fee Structure Committee. By a subsequent notice bearing Memo No. 44(T)/CS/(T)10N-4/04(Part VI) dated June 6, 2023, the Director of Technical Education directed the President, Association of Professional Academic Institutes, West Bengal, of which the respondent no. 10-College is also a part, to attend the State Level Fee Structure Committee meeting regarding fee revision of self-financing Engineering and Technology/Pharmacy/Architecture colleges from the academic year 2023-24.

**40.** On the other hand, the admission process in respect of the present appeals was completed between July 31, 2023 and September 16, 2023

and the first semester classes commenced in the month of September, 2023. Thus, in view of even the dates of hearing for revision of fee structure preceding the closure of admission, there cannot be any manner of doubt that intimation was duly sent prior to the commencement of the academic session by the concerned colleges, including respondent no. 10, to the State Level Committee in consonance with Regulation 7(7) of the 1994 Regulation. Hence, it cannot be said that the said provision was contravened in any manner whatsoever.

- 41.** It is well-settled that the Court, under normal circumstances, does not substitute its own views for that of experts. Since the Expert Committee in the present case took into consideration all relevant parameters and involved several stakeholders before arriving at the figures reflected in the revised fee structure, there is no scope of any qualitative interference into the merits of such fixation of fee structure by the Expert Committee within the purview of the 1994 Regulations by the court.
- 42.** Thus, this issue is decided against the appellants.

**(ii) Purport of the original fee structure framed by the respondent no. 10-College**

- 43.** At the bottom of the charts provided in the fee structure for the B-Tech course of the respondent no. 10-College for the 2023-27 session, the expression “entire above amounts” was mentioned, thus contemplating an *en bloc* fixation of the fee structure for the entire 2023-27 session, including all its semesters. The admission fee contemplated thereunder

was a one-time affair, treating the total course as a single block vis-à-vis the fee structure, thus further indicating that the fee structure did not contemplate mid-term alterations for individual semesters. Moreover, the total fees payable for the whole course was also indicated therein.

- 44.** Again, at the bottom of the second page of the said fee structure details, it was mentioned that the said fee structure would be subject to change “from time to time” as per the Government’s decision.
- 45.** Learned senior counsel for the appellants relies on definitions of the terms “entire” and “structure” given in various dictionaries to impress upon the court that there could not be any mid-term alteration in the fee structure. The expression “entire” has been substantially defined in the “Concise Oxford Dictionary of Current English” as well as in the “Black’s Law Dictionary” to mean “whole; complete; complete in all its parts; not divisible into parts”, etc., thus making it clear that the fee structure contemplated originally for the respondent no. 10-College was a block of payment for the entire course, containing the break-ups for separate semesters but intended to be a whole on its overall reading. Again, “structure” has been defined in various manners, such as, “a whole constructed unit; a set of interconnecting parts of any complex thing; a framework; any construction, production or piece of work artificially built up or composed of parts purposefully joined together; the organization of elements or parts”, etc.
- 46.** There cannot be any manner of doubt that, in terms of the original fee structure notification, the said structure was intended to be applicable to

the entire course session, with all its semesters, although the break-up of the fees chargeable under different heads for different semesters was indicated. Thus, there is substance to the argument of the appellants that there could not be any piecemeal enhancement mid-way, in respect of separate segments (semesters), as done by the impugned notification.

- 47.** Although Regulation 7(7) of the 1994 Regulations provides that in the first instance, fees only for the first year or semester shall be collected, the said rider pertains to the mode of collection only and not the fee structure as a whole. Even under Regulation 7(7), the college has to send intimation in advance in respect of the entire course and not isolated parts thereof, indicating the segregation into different years/semesters.
- 48.** However, such enumeration in the original fee structure is qualified by the condition, highlighted in bold letters, that the fee structure is subject to change “from time to time” as per the Government’s decisions.
- 49.** The question which therefore arises is whether such expression, if qualified by Regulation 7(7), is to be interpreted to mean that “time to time” would only refer to the intervals between two complete sessions. However, such argument is evidently not sustainable in view of our above findings that the time-frame stipulated in the said provision relates only to intimation by the college and not fixation of fee structure by the Committee. Hence, the said provision cannot be tied up with the expression “time to time”, which relates to fixation of fee structure.

50. The issue under consideration, thus, is not germane by itself, since the expressions “entire” and “structure” are qualified by the rider that the fee structure is subject to change from time to time.
51. However, it still remains to be considered whether, even independent of Regulation 7(7), the expression “time to time” *per se* empowers the State to revise the fee structure mid-session, after the candidates have already taken admission by exercising their choice on being informed of the fee structures of the different colleges/institutions for the total session.
52. This takes us to the next issue.

**(iii) Whether the impugned Notification dated October 16, 2023 is applicable to already-admitted candidates**

53. There is a distinguishing feature in the present case with the facts of *Bindiya Khatri (supra)*<sup>4</sup>. As recorded by the learned Single Judge of the Uttarakhand High Court in the said judgment, the provisions of the concerned statute therein categorically provided that the fee payable by the students shall not be revised till he/she completes the course, nothing similar to which features in the 1994 Regulation or any other law governing field in the present case. Thus, the ratio of the said judgment is not applicable *per se*.
54. However, the impugned Notification dated October 16, 2023 has certain interesting contradictions inherent in it. While stipulating the details of revised fee structure for the *2023-24 academic year*, it simultaneously

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<sup>4</sup> ***Writ Petition (M/S) No.513 of 2020 [Bindiya Khatri and others. Versus State of Uttarakhand & Others.]***

applies such fee structure for students *to be admitted in the first year*. The use of the future tense is intriguing, to say the least.

- 55.** Again, the last paragraph of the Notification stipulates that the contents thereof will take effect *from the date of notification*, thus excluding the scope of retrospective effect. ‘Retrospectivity’ here can be looked at from two perspectives – applicability to candidates of previous courses (prior to the 2023-2027 session); and applicability to candidates of the 2023-2027 sessions who have already taken admission.
- 56.** The first perspective is ruled out, since the Notification itself, in its second paragraph, categorically provides that it is meant for the 2023-24 academic year, which is the first academic year of the 2023-2027 session. It is, thus, to be considered whether the impugned Notification is applicable only to those students who were yet to take admission in the 2023-2027 course on the date of the Notification or to students of the said course across the board, both those who had already taken admission for the said course and those who had not.
- 57.** In the last part of the first paragraph of the impugned Notification, the revised fee structure is implemented *with effect from (w.e.f.)* the 2023-24 academic session, thus implying prospective operation from the 2023-24 session onward, extending to future academic sessions as well, subject to the rider that the same will remain static for at least four years for B. Tech and B. Pharm and five years for B. Arch courses. Hence, the respondents’ argument that the Notification is not capable of any other interpretation but to be tied up exclusively to the 2023-24 academic year

cannot be accepted. By its very provisions, the Notification is applicable with effect from 2023-24 academic sessions onwards, extending to future academic sessions as well.

- 58.** This leaves scope of harmonious construction of the Notification by deeming the same to be applicable to students who are yet to be admitted, either in the 2023-24 academic session itself, or in future academic sessions, at least up to four years for B. Tech courses. This view is further strengthened by the use of the expression “to be admitted” in the third paragraph of the Notification itself.
- 59.** Again, at the end of the Notification, it is categorically mentioned that the revised fee structure will take effect “from the date of notification”.
- 60.** The expressions “from the date of notification” and “students to be admitted”, read in conjunction, clearly indicate that the revised fee structure is intended to be made applicable to students from the academic session 2023-24 onwards, at least for four years, who were yet to be admitted as on the date of the Notification, that is October 16, 2023, which is the date from which the revised fee structure was to take effect.
- 61.** Thus construed harmoniously, the phrase “w.e.f. 2023-2024 academic session” is qualified by the expression “students to be admitted in the 1<sup>st</sup> year”, in the light of the further rider that the Notification “will take effect from the date of notification”, all of which are expressions featuring in the impugned Notification itself. Hence, the revised fee structure contemplated in the Notification shall be applicable only to students

taking admission in the 1<sup>st</sup> year of the 2023-2024 academic session post-Notification.

- 62.** The above construction is the only possible mode of interpretation to harmonise apparent incongruities in the Notification and to make it workable. Otherwise, in view of the inherent contradictions therein as indicated above, the Notification would be rendered unworkable.
- 63.** A larger aspect cannot also be overlooked. Throughout the 1994 Regulations as well as the original fee structure published by the respondent no. 10-College in terms of the last-prevailing Notification, the perception of the authorities is reflected to be an *en bloc* fixation of the fee structure for the entire academic session 2023-24, without allowing for any mid-session implementation of revised fees from a particular semester onwards. The fees for different semesters under different heads, as reflected in the original fee structure as well as the revised fee structures, are merely for the purpose of indicating that sub-divisions within the structures, without taking anything away from the composite and integrated nature of the entire fee structure for the total course as a whole.
- 64.** Thus, for the revised fee structure to be given effect to as a whole, retrospective effect has to be given in respect of students who have already taken admission, thereby defying the impugned Notification itself, which gives such effect *from the date of the Notification* only for the students “*to be admitted*”.

- 65.** A second facet of the matter is that, as rightly argued by the appellant, the choice of college is not determined merely by the merits of the successful students or their aspirations and/or the quality of the college but also the financial constraints of the students. Even if eligible for a better college, the students may select a comparatively less-reputed college only on the yardstick of financial constraints. Thus, the financial capacity of the student's family plays a pivotal role in the selection of college. The writ court is not merely a court of law but primarily a court of equity, having wings which are not available to a court determining disputes within the constraints of pure procedural law. Hence, the element of choice of the students has to be recognised by the writ court to be governed by their financial capacity apart from merits.
- 66.** Seen from the prism of the students, who ultimately have to bear the brunt of enhanced fees, if the rules of the game are changed after commencement of the same, students who are sponsored by their families by scraping together resources and/or taking loans might find it impossible to carry on with their education in their chosen college at all. Students coming from marginalized backgrounds would take the worst hit in such a scenario.
- 67.** Worse still, even if such a student, incapable of meeting the revised fees, seeks to revert back to a college charging less fees and of inferior quality, it might be altogether impossible to find such an alternative mid-session, since most colleges worth their mettle are already supposed to be filled up after the counselling and admission processes are over.

- 68.** Such stark reality cannot be glossed over by the writ court, which is also a court of equity. Hence, a retrospective implementation of a revised and enhanced fee structure mid-session, after students being opted for particular colleges not only on their merits but also the fee structures, might be fatal to the academic career of the students as well, which hits at the very root and purpose of the entire body of education jurisprudence.
- 69.** A third foundational principle cannot also be overlooked. The original fee structure of the respondent no. 10-college, on the basis of which the candidates (including the present appellants) took admission for the 2023-2027 academic session of the concerned course, was based on the then-prevailing Notification of the State Government. On the basis of such fee structure, which encompassed the entire 2023-2027 session, including a one-time admission fee, the appellants exercised their options by selecting their respective colleges. If the entire fee structure for the said 2023-2027 session is enhanced after closure of the admission process and commencement of classes for such academic course, such enhancement would squarely be hit by the principle of Estoppel.
- 70.** Hence, unless the impugned Notification is read down and harmonized to apply only to those students of the 2023-2027 batch, commencing from the 2023-2024 academic year, who have not yet taken admission, as well as to students of the subsequent batches, say from 2024-2028 onwards, the said Notification will have to be struck down, being

inherently contradictory and being barred by the doctrine of Estoppel as well as violative of equitable principles.

### **CONCLUSION**

- 71.** In view of the principles discussed above, this court is of the opinion that the learned Single Judge erred in law and in equity in dismissing the writ petitions of the appellants.
- 72.** The appropriate course of action would be not to strike down the Notification altogether but to read it down to apply only to students of the academic year 2023-24 onwards, including subsequent academic sessions, prospectively, in respect of students who have not already been admitted to the respective colleges covered by the said notification.
- 73.** Interpreted thus, the effect of the notice would not be applicable to the present appellants. Accordingly, the revised fee structure published by the respondent no. 10 and the other college-authorities covered by the impugned Notification dated October 16, 2023 is required to be quashed insofar as the appellants and other similarly placed students, who have already taken admission for the 2023-27 academic session, are concerned.
- 74.** It is hereby clarified that this Court is not oblivious to the argument made by the contesting respondents to the effect that some of the appellants and other similarly placed students have already paid in terms of the impugned revised fee structure. However, it is evident that such payment was made under compulsion and on threat of

expulsion/losing their academic year and not voluntarily, in order to save the academic career of the concerned students. Thus, *per se*, the factum of such payments cannot take away or curtail the right of the appellants to challenge the said order. In any event, even in respect of other similarly placed students who have not preferred appeals but have already taken admission for the 2023-27 academic session in terms of the original fee structure, come within the ambit of the above interpretation and thus, ought to be refunded back the additional payments taken from them in terms of the revised fee structure.

**75.** Accordingly, MAT No. 268 of 2026, FMA No. 284 of 2026 and FMA No. 288 of 2026 are partially allowed on contest, thereby setting aside the impugned judgments dated January 15, 2026, passed in WPA No. 26400 of 2024, WPA No. 13054 of 2024 and WPA No. 3028 of 2024 respectively, with the following findings/directions:

- (I) The impugned Notification, bearing no. 466-Edn-(T)/10M-04/2004 (Part IV) dated October 16, 2023, is read down to be applicable for the academic year 2023-24 onwards, at least for four years in respect of B. Tech and B. Pharm courses and five years for B. Arch. courses, only in respect of students who were admitted or shall be admitted on and from October 16, 2023 onwards. However, the impugned Notification shall not apply to students whose admission process for the academic session 2023-2027, starting from the

academic year 2023-2024, stood completed before October 16, 2023.

- (II) The revised fee structures published in terms of the impugned Notification dated October 16, 2023 by the respondent no. 10-College and all other colleges coming under the umbrella of the said Notification are hereby quashed and set aside to the limited extent insofar as those apply to the students of such colleges whose admission process stood concluded before October 16, 2023 and shall be applicable only to those students who were or shall be admitted on and from October 16, 2023.
- (III) Any action taken in terms of the impugned Notification shall stand reversed, insofar as the candidates whose admission process stood concluded before October 16, 2023 are concerned.
- (IV) Additional amounts, if any, collected from any such student (whose admission process stood concluded before October 16, 2023) in terms of revised fee structures framed pursuant to the impugned Notification dated October 16, 2023, shall be refunded by the respondent no. 10-college and all other colleges standing on similar footing to the respective students who have paid such additional amounts, before commencement of the next semester.
- (V) Alternatively, such additional amount shall be adjusted with the fees payable by the aforementioned students (whose admission process stood concluded before October 16, 2023) for the next semester in terms of the fee structure prevailing prior to the

impugned Notification; in the event, even after such adjustment with the next semester fees, a part of the additional amounts paid by such students still remains unrefunded, such balance amounts shall be refunded by the concerned colleges to the concerned students within one month from the commencement of such next semester.

- 76.** The interim applications, all bearing CAN 1 of 2026, pending in connection with all the three appeals, stand disposed of accordingly.
- 77.** There will be no order as to costs.
- 78.** Urgent certified copies, if applied for, be supplied to the parties upon compliance of all formalities.

**(Sabyasachi Bhattacharyya, J.)**

I agree.

**(Supratim Bhattacharya, J.)**

**Later**

After the above judgment is passed, learned counsel appearing for Dr. B. C. Roy Engineering College seeks stay of operation of the above judgment.

However, considering that time has been granted for refund of the additional fees charged till the next semester, alternatively, adjustment

with the fees payable for the next semester, and keeping in view of the future of the students concerned, such prayer for stay is refused.

**(Supratim Bhattacharya, J.)**

**(Sabyasachi Bhattacharyya, J.)**