

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7792 of 2020

1. Kartikay Trivedi S/o Sandeep Trivedi R/o 117 K/211 R.S. Puram, P.O.- Saketpuri, P.S.- Kakadeo, Kanpur, Uttar Pradesh- 208025
2. Apoorva @ Apoorva Pandey D/o Jagdish Narain Pandey R/o 479/11, Kailashpuri Govindpur, P.O.- Teliargunj, P.S.- Shivkuti Thana, Allahabad, Uttar Pradesh- 211004
3. Gyanendra Singh S/o Nagendra Singh R/o 00, Tamolinpurwa, Kundwa, P.O.- Mihinpurwa, P.S.- Motipur, Bahraich, Uttar Pradesh- 271855
4. Kumar Sushant S/o Late Yugal Kishore Roy, R/o 202, Surya Laxmi Villa, P.O.- Ramjaipal Nagar, P.S.- Rupaspur, Danapur, Patna- 801503.
5. Shreya Sinha D/o Sudhir Kumar R/o House Number 482, Opposite Little Flower Pre- Primary School, Patel Nagar, P.O. and P.s.- Masaurhi, Patna- 804452.
6. Maitreya Saha S/o Soumitra saha, R/o 97/A, Taltala Lane, Ground Floor, P.O.-Entally, P.S.-Taltala Police Station, Kollata-700014
7. Jayesh Agrawal S/o Jagdish Krishna Agrawal, R/o Rajaram Lane, P.O.- Jhauganj, P.S.-Chowk Thana, Patna City, Patna-800008
8. Aditya Saurav S/o Mithilesh Kumar Singh R/o Salempur Road, P.O.- Ratanpur, P.S.-Ara Mufassil, Bihar-802312.
9. Abhinav Prasad S/o Aditya Prasad, R/o 105, R.K. Sadan, Gola Road, P.O.- Ramjaipal Nagar, P.S.-Rupaspur Patna-801503, Bihar.
10. Sumit Kumar S/o Sunil Kumar, R/o Kailash Niwas, Palika Machli Market, Bhasasoor, Ranchi Road, P.O.-Bihar Sharif, P.S.-Laheri, Nalanda, Bihar- 803101
11. Mitesh Kumar S/o Sanjay Kumar, R/o Front of Patliputra Marbles, near Krishna Niketan Girls School, Zero Mile, P.O.-Jakariyapur, P.S.-Ramkrishna Nagar, Patna-800007
12. Parth Sharma S/o Mahesh Chandra Sharma R/o Villa No. 25, Latanagar Samanvay, Kalwar Road, P.O.-Kaanta, P.S.- Kartdhani, Jaipur-302012
13. Shubham Mishra S/o Ashok Kumar Mishra R/o E-67, Qutub Vihar, Phase-1, Dwarka Sector-19, P.O.-Qutub Vihar, P.S.-Chawla, New Delhi-110071.
14. Aastha Singh D/o Kunwar Bhagwan Singh Rajput, R/o F-119/54, P.O.- Shivaji Nagar, P.S.-Habibganj, Bhopal, Madhya Pradesh-462016
15. Dushyant Singh Chauhan S/o Prithvi Singh Chauhan, R/o 4/190, B Block, P.O.-Panchsheel Nagar, P.S.-Kishanganj, Ajmer-605001, Rajasthan.
16. Himanshu Singh Vatsya S/o Bechan Singh R/o 155, Manas Vishar, P.O. and P.S.-Indra Nagar, Lacknow, Uttar Pradesh-226016
17. Vicky Kumar S/o Shyam Kishor Kumar, R/o Bari Pahadi, Mansur Nagar, Bihar Sharif, P.O. and P.S.-Sohsarai, Nalanda, Bihar-803118
18. Siddhi Aashana D/o Upendra Padia, R/o 401, Sheela Residency, East Boring Canal Road, P.O.-Boring Road, P.S.-Buddha Colony, Patna-800001, Bihar. Petitioner Nos. 1-18 are Students of 5th Year (Batch 2016-2021) at Chanakya National Law University, Patna.



19. Abhishek Kumar S/o Yogendra Prasad R/o At and P.O.-Badgaon, P.S.-Sirdala, District-Nawada, Bihar-805114
20. Aanchal D/o Akhilesh Kumar, R/o 3rd Floor, Ujjain Complex, Opp. Maurya Lok, Dak Bunglow Road, P.O.-GPO, P.S.-Kotwali, Patna-800001.
21. Sudarshan Kumar S/o Shyam Nandan Paswan, R/o Beur, Last Chauraha near Central School, Hasan Pura, P.O. and P.S.-Beur, Patna-800002, Bihar.
22. Sharda Raje Singh D/o Kumar Sunil Singh R/o Ekauna Kothi, Keshri Nagar, P.O.-Keshri Nagar, P.S.-Shastri Nagar, Patna-800024 Petitioner Nos.19-22 are Students of 4th Year (Batch 2017-2022) at Chanakya National Law University, Patna.
23. Ujjwal Singh S/o Shatrunjay, R/o A/17, Sachivalaya Colony, Kankarbagh, P.O.-Lohiya Nagar, P.S.-Patrakar Nagar, Patna-800020
24. Gaurav Deep Rajan S/o Premchand Sah R/o Prem Kunj, Near Happy Home Company Sarai, P.O. and P.S.-Sasaram, Rohtas, Bihar-821112
25. Ansh Prasad S/o Late Sukesh Kumar, R/o Bihari Kunj, Makhina Kuan, P.O.-Bankipur, P.S.-Pirbahore, Patna-800004
26. Pulak S/o Dr. Ram Manohar Vikas, R/o T-3, Kirti Apartments, Post Office Road, P.O. and P.S.-Shastri Nagar, Patna-800023
27. Sarvjeet Kumar S/o Brahmeshwar Gond, R/o Bara Basantpur, Ara, Bhojpur, P.O.-Daulatpur, P.S.-Ara Muffasil, Bihar-802313 Petitioner Nos. 23-27 are Students of 3rd year Batch 2018-2023) at Chanakya National Law University, Patna.
28. Shubh Gautam S/o Sudhir Kumar Gupta R/o Old Traders Building, Muradpur, P.O.-Bankipore, P.S.-Pirbahore, Patna-800004
29. Md. Junaid Imam S/o Obaidullah Ansari R/o Village-Babandiha, P.O. and P.S.-Obra, District-Aurangabad, Bihar-824124 Petitioner Nos. 28 and 9 are Students of 2nd year (Batch 2019-2024) at Chanakya National Law University, Patna.

... .. Petitioner/s

Versus

1. Chanakya National Law University Patna Through The Registrar, Near Jakkanpur, Police Station, Nyaya Nagar, Mithapur, P.S.- Jakkanpur, Patna-800001, Bihar.
2. The Vice Chancellor, Chanakya National Law University, Patna, Near Jakkanpur Police Station, Nyaya Nagar, Mithapur, P.S.- Jakkanpur, Patna-800001, Bihar.
3. The Registrar, Chanakya National Law University, Patna, Near Jakkanpur Police Station, Nyaya Nagar, Mithapur, P.S.- Jakkanpur, Patna- 800001, Bihar.
4. The Accounts Officer, Chanakya National Law University, Patna, Near Jakkanpur Police Station, Nyaya Nagar, Mithapur, P.S.- Jakkanpur, Patna-800001, Bihar.

... .. Respondent/s



Appearance :

For the Petitioner/s : Mr. Sumit Kumar Singh, Advocate
Mr. Shubham Bajaj, Advocate
Mrs. Shatakshi Sahay, Advocate
Ms. Sarita Bajaj, Advocate
Mr. Suyash Rawat, Advocate
For the Respondent/s : Mr. Dr. Anshuman, Advocate
Mr. Sanjay Kumar, Advocate
Mr. Shadwal Harsah, Advocate

**CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT**

Date : 22-11-2021

Heard learned counsel for the parties.

In the instant petition, the petitioners have prayed for the following reliefs:-

“(i) To issue an appropriate writ/order/direction in the nature of Certiorari hereby quashing the Demand Notice cum Letter No. CNLU/45(a)/2020-323 dated 07.08.2020 issued by the Respondent directing the Petitioners to deposit the complete fees for Academic year 2020-21, as a lump sum one time payment before 31st August, 2020 and furthermore have stipulated that failure to pay the same would result in penalization of the Petitioners.

(ii) To issue an appropriate writ/order/direction in the nature of Mandamus directing the Respondent to refund the fees charged from the Petitioners' for the month of March and April, 2020 (Academic Year 2019-20), for all charges such as Mess fees, Electricity fee, Library fee, Accommodation fee and other facility fee, except for tuition fees, as the services provided by the Respondent for which the Petitioners had been charged has not been utilized during the said period the Respondent No. 1 had seized physical functioning.



(iii) To issue an appropriate writ/order/direction in the nature of Madamus directing the Petitioners for the Acadmic year 2020-21, and allow only the collection/charging of tuition fees, as the University has closed its physical functioning till further notice, wherefore, the Petitioners are not availing any services for which they ought to be charged.

(iv) To issue an appropriate writ/order/direction in the nature of Mandamus directing the Respondent to allow the Petitioners to pay the reduced/deducted fees (amounting only tuition fees) in not less that 3 (three) equal installments wherein payment of every equal installment shall have a gap of not less than two (2) months.

(v) To any other relief or reliefs for which the Petitioners are found entitled to in the facts and circumstances of the case.”

Question for consideration in the present petition is whether the respondent-University are entitled to collect fees from the petitioners-students towards facilities fees and library fees during COVID-19 Pandemic period or not?

Perusal of the official Memorandum dated 07.08.2020 the respondent-University has demanded tuition fees Rs. 94,500/- and Rs. 2,62,500/- from NRI sponsor category. The other heads are relating to examination fee as well as facilities fees Rs. 15,000/- and library fees Rs. 5,000/- The students have not attended the



classes during the COVID-19 Pandemic, therefore, the demand of the University in respect of payment of facilities fees and library fees are arbitrary and illegal for the reasons that when the petitioners could not attend the classes as it was beyond their control in view of COVID-19 Pandemic was in vogue, therefore it is not proper for the University to demand facility fees and library fees during the COVID-19 Pandemic period from the students.

The learned counsel for respondent-University pointed out from para 4(iii)of the counter affidavit how the University faced financial constraint. Paragraph 4(iii) of the counter affidavit reads as under:-

“4(iii) That the CNLU has considered the guidelines issued by the Bar Council of India in this regard as well as the fee structures of different UNIVERSITIES published for Academic Session 2020-21. The answering respondent CNLU has considered every aspect of the matter under which the University is functioning during pandemic period. It has full sympathy towards all the students of the University including the petitioners and their financial constraints. The respondent University as such has granted more concessions and waiver to its students including the petitioners. The answering University has granted concession and waived Rs. 6000/- towards infrastructure fees, Rs. 3,000/- towards Development Charges, Rs. 3,000/- towards Welfare Fund and Rs. 5,000/- towards Electricity Charges. In this manner, total concession and waiver of Rs. 17,000/- per student have been granted to all the



students of the University including the petitioners during the present Financial Year 2020-21, The total concession and waiver granted to the students shall come to the tune or Rs. 17,000/-x600=Rs. 1,02,00,000/- (Rs. One Crore Two Lacs) approx. Apart from the above said concession and waiver, the respondent University is also not charging room rents of the hostel, mess fee and electricity charges of hostel at present particularly when the hostel room are still under the occupation of students. It will be charged only from the day of physical reopening of the University as pro-rata basis.

The said decision taken by the University regarding fee, structure, concession and waiver was placed before the Academic Council and it has duly been approved.”

Reading of the aforesaid paragraph does not reveal the ingredients of facilities provided to students. Mere purchase of books and other infrastructure to the institution/University it is not proper for University to demand fees towards facilities fees and library fees when the students are not benefited by the aforesaid facilities.

Apex Court in respect of school fee structure, it is observed that the management of educational institutions should be sensitive to the problems faced by people due to the pandemic and take steps to provide succour to students and their parents in these harsh times. It said insisting on payment for facilities not provided to students would amount profiteering which must be



avoided by the educational institutions. “In law, the school management can not be heard to collect fees in respect of activities and facilities which are, in fact, not provided to or availed of by its students due to circumstances beyond their control. Demanding fees even in respect of overheads on such activities would be nothing short of indulging in profiteering and commercialization. It is a well-known fact and judicial notice can also be taken that due to complete lockdown, schools were not allowed to open for substantially long period during the academic year 2020-2021. Resultantly, the School management must have saved overheads and recurring cost on various items such as petrol/diesel, electricity, maintenance cost, water charges, stationery charges etc.”

Educational institutions should not be rigid and not be sensitive about the aftermath of the pandemic. The educational management supposedly engaged in doing charitable activity of imparting education, is expected to responsive and alive to that situation and take necessary remedial measures to mitigate the hardship suffered by students and their parents. It is for the educational institution to reschedule payment of college itself in such a way that not even a single student is left out or denied opportunity for pursuing his/her education, so as to effectuate the



adage—live and let live. Apex Court also observed “Indeed, overheads and operational costs so saved would be nothing, but an amount undeservedly earned by the school without offering such facilities to the students during the relevant period... the principle of quid pro quo must come into play. However, no accurate (factual) empirical data has been furnished by either side about the extent to which such savings have been or could have been made or benefits derived by the school management. Without insisting for mathematical exactitude approach, we would assume that the school management(s) must have saved around 15% of the annual school fees.” It is also observed that students are not liable to pay fees for unutilized facilities during the relevant period of pandemic year 2020-21.

Article 41 of the Constitution is to secure the right of work, to education and to public assistance in certain cases of unemployment, old age sickness and disability. Similarly Article 46 of the Constitution deals with education of weaker sections of the people. These articles also assist the petitioner’s grievance.

In the light of these facts and circumstances, the petitioners have made out case so as to interfere with the impugned order only in respect of demand of facilities and library fees are concerned.



Accordingly, the demand for facility and library fees of a Sum of Rs. 15,000/- and Rs. 5,000/- are arbitrary and illegal and such demand from student are set aside. The petitioners are hereby directed to pay the then fees as demanded pursuant to official Memorandum dated 07.08.2020. The Respondent-University if they have collected fee under the Head of Facilities & Library fee from any student the same shall be refunded at the earliest.

Accordingly, the petition stands allowed in part.

(P. B. Bajanthri, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	01.12.2021
Transmission Date	N/A

