

**IN THE HIGH COURT AT CALCUTTA
(CONSTITUTIONAL WRIT JURISDICTION)**

APPELLATE SIDE

Present :

The Hon'ble Justice Partha Sarathi Chatterjee

WPA 13054 of 2024

With

CAN 1 of 2024

With

CAN 2 of 2024

With

CAN 3 of 2025

Gourab Kumar Sadhu & Ors.

Vs.

The State of West Bengal & Ors.

With

WPA 26400 of 2024

With

CAN 1 of 2025

Tanushri Mondal & Ors.

Vs.

The State of West Bengal & Ors.

With

WPA 3028 of 2024

With

CAN 2 of 2024

With

CAN 3 of 2024

With

CAN 5 of 2025

Debajyoti Dey & Ors.

Vs.

The State of West Bengal & Ors.

For the petitioners : Mr. Pratik Dhar, Sr. Adv.,
Mr. Sarwar Jahan,
Mr. Shmim-ul-Bari.

For the State (in WPA 13054 of 2024
& WPA 26400 of 2024) : Mr. Swapan Kr. Datta, Sr. Adv.,
Mr. Rajat Dutta,
Mr. Dipankar Dasgupta.

For the State (in WPA 3028 of 2024) : Mr. Sirsanya Bandyopadhyay,
Ms. Tapati Samanta.

For the respondent nos. 13 to 15 : Mr. Tanoy Chakraborty,
Mr. Chhandak Dutta.

For the B.C. Roy Engineering College : Mr. Kamalesh Bhattacharya,
Ms. Rama Halder,
Ms. Eshita Mondal.

For M.A.K.A.U.T. University : Ms. Nandini Mitra,
Mr. Sakya Maity,
Mr. S. Banerjee.

Heard on : 18.12.2025

Judgment on : 15.01.2026

Partha Sarathi Chatterjee, J.:-

Preface:

1. For the sake of thematic coherence, all three writ petitions are taken up for hearing together. The aforesaid writ petitions have been filed by a group of students presently pursuing the four-year B.Tech. Programme (Batch 2023–

2027) at Dr. B.C. Engineering College, Durgapur, Paschim Burdwan, calling into question the legality and justifiability of Notification No. 466-Edn(T)/10M-04/2004 (Part-IV) dated 16.10.2023 issued by the Deputy Secretary to the Government of West Bengal, Department of Higher Education, whereby a mid-course enhancement of fees was directed. The petitioners have, therefore, prayed for issuance of a writ of *certiorari* for quashing the said notification dated 16.10.2023. In addition, the petitioners have prayed for a writ of *mandamus* directing the college authorities to withdraw and/or cancel the revised fee structure appearing at Annexure-P-4 to the writ petition and to accept fees in accordance with the earlier fee structure as reflected in Annexure-P-2 to the writ petition.

Petitioners' case:

2. Before entering into the merits of the issues involved in the present writ petition, it would be apposite to briefly advert to the facts leading to its institution.
3. In or about August 2023, the petitioners secured admission to the four-year B.Tech. undergraduate course in different departments of Dr. B.C. Roy Engineering College, Durgapur, a self-financing engineering institution affiliated to Maulana Abul Kalam Azad University of Technology (for short, MAKAUT) and approved by the All India Council for Technical Education, New Delhi (respondent no. 5 herein), as well as by the Department of Higher Education, Government of West Bengal, through the West Bengal Joint Entrance

Examination (in short, WBJEE) and Joint Entrance Examination-Main (in short, JEE-Main), conducted by National Testing Agency (in short, NTA) in 2023.

4. At the time of admission, the respondent college communicated a definitive and uniform fee structure, which was accepted by the petitioners as governing the financial terms of their academic engagement. Relying upon the aforesaid representation, the petitioners completed their admission formalities. Several petitioners, acting on the disclosed fee structure, applied for and obtained educational loans from various nationalised and private banking institutions, which were sanctioned strictly on the basis of the fee structure communicated by the respondent college.
5. In October 2023, the petitioners duly completed their registration. Upon such registration, the petitioners' admissions stood formally confirmed, and the statutory window for withdrawal from, or migration to, any other institution for the relevant academic session stood closed.
6. Subsequent thereto, on 16th October, 2023, the Department of Higher Education, Government of West Bengal, issued Notification No. 466-Edn-(T)/10M-04/2004 (Part IV), whereby the upper fee ceiling for self-financing engineering colleges in the State was revised upwards, ostensibly to address increased operational and infrastructural costs.
7. In November 2023, after completion of the MAKAUT registration process, the respondent college authorities (respondent nos. 10–12), placing reliance on the aforesaid notification, issued a revised fee demand upon the petitioners with effect from the second semester commencing in January 2024. The revised fee

structure introduced an enhanced tuition fee, along with the imposition of a newly levied “development fee” of Rs. 9,075 per semester.

8. The cumulative effect of the revised demand resulted in an increase of nearly 37.50% over the fee structure originally disclosed at the time of admission. The petitioners contend that the respondent college, having disclosed a definitive fee structure at the time of admission and thereby inducing the petitioners to enroll on the basis of such representation, subsequently altered the said fee structure to their grave prejudice.
9. The petitioners further contend that the mid-course escalation of fees is in violation of Regulation 7 of the AICTE Regulations, 1994, which mandates that once a fee structure is fixed, it shall remain unchanged for a minimum block period of three years.
10. In December 2023, the petitioners raised objections to the impugned fee hike. However, finding no relief at the institutional level, the petitioners issued a formal Notice Demanding Justice on 25th January, 2024, calling upon the respondents to withdraw the impugned notification and restore the original fee structure. Despite receipt of the said notice, the respondents failed to take any remedial steps and continued to insist upon payment of the enhanced fees between February and June 2024. Hence, this writ petition.

Respondents’ Case :

11. Dr. B.C. Roy Engineering College, Durgapur, is a self-financing professional institution approved by the All-India Council for Technical Education (AICTE) and the Department of Higher Education, Government of West Bengal, and

affiliated to Maulana Abul Kalam Azad University of Technology (MAKAUT), and that it is governed by the regulatory framework prescribed by the State of West Bengal through the Department of Higher Education.

12. In 2016, the Fee Structure Committee headed by the Hon'ble Justice Pradipta Roy, upon taking note of the fact that the fees charged by self-financing engineering and technological colleges in West Bengal were lower than those charged by comparable institutions in other States of the country, recommended an enhancement of tuition fees by 10%. Pursuant thereto, the State Government, by a notification dated 17.06.2016, revised the fee structure for undergraduate courses in Engineering, Technology, Pharmacy, and Architecture in private and self-financing institutions from the academic session 2016–17.
13. Admittedly, since 2016, there has been no revision of course fees in self-financing engineering and technology colleges in West Bengal. However, respondent nos. 10 and 11, and even respondent no. 14, had, on numerous occasions, approached the competent authority seeking revision of the fee structure, contending that the colleges had been suffering significant financial losses owing to inflation, the impact of the COVID-19 pandemic, and increased operational expenditure.
14. The State Level Fee Structure Committee held a meeting on 10.07.2019 for the purpose of making recommendations regarding tuition and other fees for undergraduate professional technical courses in self-financing engineering colleges in the State of West Bengal. Thereafter, on 09.06.2023, the Committee requested respondent no. 14 to appear before it in connection with the said exercise.

15. Lastly, after almost 7 years, in exercise of its statutory and administrative powers, the Department of Higher Education, Government of West Bengal, issued Notification No. 466-Edn-(T)/10M-04/2004 (Part IV) dated 16th October, 2023, revising the upper ceiling of fees chargeable by self-financing engineering colleges in the State for the academic session 2023–2024 onwards.
16. The said notification was issued with the approval of the competent authority and expressly supersedes all prior orders governing fee ceilings, with the objective of ensuring financial sustainability, maintenance of academic standards, and infrastructural development of self-financing professional institutions.
17. Pursuant to the aforesaid notification, the respondent college revised its fee structure with effect from the second semester commencing in January 2024. The revised structure included an enhanced tuition fee and the introduction of a development fee, framed strictly within the maximum ceilings prescribed by the State Government.
18. The Respondents contend that the revision was necessitated due to a substantial increase in operational expenditures, including faculty remuneration, infrastructural maintenance, laboratory upgrades, and compliance with regulatory requirements, which had remained unaddressed for several preceding academic years. The revised fee structure is neither arbitrary nor retrospective, as it was implemented prospectively in accordance with the State notification and within the permissible regulatory framework applicable to self-financing institutions.

19. The prospectus itself clearly informed the students that the fee structure was liable to be revised from time to time in accordance with government decisions. The college authorities did not enhance the fee schedule on their own but strictly acted in compliance with the decision of the State Government as notified on 16.10.2023 with immediate effect. However, taking into consideration the inconvenience that the students might face, implementation of the revised fee demand was deferred until December, 2023.
20. The respondents dispute the applicability of Regulation 7(6) of the AICTE Regulations, 1994, relied upon by the petitioners, contending that the said regulation has been superseded and/or suitably modified by subsequent State-level fee regulatory frameworks governing self-financing technical institutions. It is further contended that, in terms of the mandate contained in the *Approval Process Handbook for 2023*, which is binding on the petitioners, a self-financing engineering college is required to charge only such fees as are fixed by the State or the Fee Regulatory Committee.
21. According to the Respondents, the writ petition is devoid of merit, as the impugned fee structure is in conformity with the prevailing statutory framework and is essential for the continued functioning and development of the institution, as well as for the fulfillment of its academic obligations towards the students.

Arguments:

22. Mr. Dhar, learned Senior Advocate appearing for the petitioners, submitted that the petitioners are not opposed to the enhancement of fees by the College. The primary question that arises for consideration in the present litigation,

however, is whether such enhancement of the fee structure can be effected for a single semester or whether it must apply to the entire course. In this context, he drew my attention to the document annexed as Annexure P-2 to the writ petition (WPA 3028 of 2025), titled 'Fee Structure B.Tech 2023–2027'. He laid immense emphasis on the word 'structure' to contend that it must be viewed in its entirety and not in a piecemeal manner. By way of analogy, he submitted that a 'structure' may be compared to a building comprising several floors; however, when one speaks of the building, it cannot be viewed floor by floor in isolation.

23. He argued that it is not the petitioners' case that a self-financing engineering college lacks the authority to enhance fees. According to him, however, any such fee enhancement cannot be made applicable to students who have already taken admission. He further submitted that the right to revise course fees does not include the right to disrupt the 'Fee Structure'. In his submission, the 'structure' would stand breached if the fees are enhanced after the first or second semester.

24. He contended that there must be consistency and transparency in determining the 'Fee Structure' and affordability of a student to pay that fees are also to be taken into account. He further contended that a student must know about it before taking admission. He argued that since the petitioners have taken admission based on the fee structure shown to them, they cannot be forced to pay mid-course enhanced fees.

25. To bolster his submissions, he cited a decision, reported at *2019 SCC OnLine Del 6737 (Shanker Doon & Ors. vs. Government of NCT of Delhi & Ors.)*. In addition, he relied on an unreported decision of a Single Bench of the High Court at Uttarakanda rendered in a batch of writ petitions, *Writ Petition (M/S) No. 513 of 2020 & Ors. (Bindiya Khatri & Ors. vs. State of Uttarakhand & Ors.)* and another unreported

decision of the Hon'ble Supreme Court dismissing the *Spl. Leave to Appeal (C) No. (s). 19637 of 2019*, which was preferred to assail the decision rendered in case of *Shanker Doon & Ors. (supra)*.

26. Per contra, Mr. Bhattacharya, learned Senior Advocate appearing for the college authorities, submitted that there had been no revision of fees for the last seven years. He contended that, pursuant to the decision of the State Government, the college is required to enhance the salaries of its staff and faculty members. However, in view of the interim order passed in the present writ petition, the college has been unable to effect such salary enhancements. He further submitted that other operational costs have meanwhile increased.

27. He further contended that the prospectus itself clearly specified that the 'fee structure is subject to change from time to time as per Government decision'. Therefore, according to him, even at the time of admission, the students were fully aware that the fee structure for the entire course could be revised. He claimed that other students of same batch have already accepted enhancement of fees and/or revision of fee structure.

28. He also submitted that the decisions relied upon by the petitioners were rendered in the context of different statutory framework and are, therefore, distinguishable on facts.

29. Mr. Dutta, learned Senior Advocate and Government Pleader appearing on behalf of the State respondents, submitted that, in accordance with the provisions of the applicable legislation, a Fee Regulatory Committee was duly constituted. The said Committee recommended enhancement of fees, and pursuant to such recommendation, the fees were revised. He further submitted that, despite being

aware that the fee structure was liable to be revised in accordance with Government decisions, the students, including the petitioners, took admission. Therefore, according to him, implementation of the notification dated 16.10.2023 in respect of the petitioners and other students admitted to the B.Tech course for the batch 2023–27 cannot be said to be legally unsustainable.

30. Mr. Chakraborty, learned Advocate appearing on behalf of respondent nos. 13 and 14, contended that the course fees in self-financing engineering and technological colleges have not been revised for the last seven years. He further submitted that, when compared with the fee structures of similarly placed institutions in other States of the country, the revised fee structure still remains considerably lower.

31. Mr. Chakraborty submitted that, under the applicable rules, colleges are required to maintain high standards of faculty, state-of-the-art laboratory facilities, and various other amenities and services in accordance with the stipulations of the AICTE and the affiliating university. He contended that tuition fees constitute the sole source of income for such colleges. According to him, the colleges are obliged to revise the salaries of staff and faculty members and to pay dearness allowance in accordance with Government norms, while other operational costs have also increased. As a result, there exists a serious imbalance between income and expenditure in most such institutions, thereby justifying the enhancement of fees. He further submitted that students of other colleges have accepted the revised fee structure and that only the present petitioners are resisting the revision

32. He asserted that the judgments relied upon by the petitioners were rendered under entirely different legislative frameworks and in distinct factual matrices, and

therefore, the principles laid down therein are not applicable to the present case. Lastly, he submitted that although the notification dated 16.10.2023 was issued with immediate effect, its implementation was deferred until January, 2024, keeping in view the inconvenience that might otherwise be caused to the students.

Analysis and conclusion:

33. Therefore, although the petitioners have challenged the legality of the notification dated 16.10.2023, their principal contention is that the said notification cannot be made applicable to the petitioners who had already secured admission and are presently pursuing the four-year B.Tech course for the academic batch 2023–2027. Accordingly, the central issue that arises for consideration is whether the notification dated 16.10.2023 can be applied to students, including the petitioners, who were admitted in the year 2023. Thus, the petitioners have abandoned the challenge to the legality of the notification dated 16.10.2023.

34. With a view to conferring statutory powers upon the All India Council for Technical Education (hereinafter referred to as “AICTE”), for ensuring proper planning and coordinated development of technical education throughout the country, regulating the technical education system, maintaining norms and standards, and prescribing guidelines for student admissions and the charging of fees etc., the All India Council for Technical Education Act, 1987 (hereinafter referred to as “the 1987 Act”) was enacted. Clauses (j) and (o) of Section 10 of the 1987 Act cast a duty upon the AICTE to lay down norms and guidelines for charging tuition and other fees and to prescribe guidelines for admission of students to technical institutions and universities imparting technical education. Further,

Section 23 of the 1987 Act empowers the AICTE to frame regulations for carrying out the purposes of the Act.

35. In exercise of the powers conferred by clause (j) and clause (o) of Section 10 read with Section 23 of the 1987 Act, AICTE has made All India Council for Technical Education (norms and guidelines for fees and guidelines for admissions in professional colleges) Regulations 1994 (for short, 1994 Regulations).
36. In order to shed light on the issue involved in the writ petition, it would be appropriate to examine the statutory framework of Regulation 7 of the 1994 Regulations. Regulation 7(1) mandates that tuition and other fees of a professional college shall be determined by a State Level Committee. Regulation 7(2) directs the AICTE to constitute a Standing Committee for each State to fix the ceiling on the fees chargeable for individual courses offered by professional colleges.
37. The Regulations further provide that the determination of tuition and other fees shall be made after affording the concerned colleges an opportunity to place relevant materials on record and on the basis of an assessment of the expenditure of the professional college. Regulation 7(6) stipulates that no professional college shall be entitled to receive from any student any payment or amount in addition to the fee fixed by the Committee.
38. Regulation 7(7) mandates that professional colleges shall intimate the competent authority, in advance, of the fees chargeable for the entire course commencing from the academic year for which admissions are to be made. The total fee shall be divided according to the number of years or, as the case may be, the number of semesters of study for the course. At the first instance, only the fee for the first year or semester

shall be collected. The fee chargeable by a professional college shall, in all cases, be subject to the ceiling fixed by the Standing Committee.

39. As a general rule, any enhancement of fees is required to operate prospectively, that is, for future academic years or batches, and not retrospectively so as to affect students who are already enrolled. In catena of judicial decisions, it was ruled that the application of a revised fee structure to students who have secured admission under a previously disclosed fee regime is often regarded as arbitrary and legally impermissible. Moreso, the principle of contractual stability mandates that an educational institution is entitled to charge only such fees as were promised at the time of admission.
40. However, in the present case, the respondents have contended that the right to revise the fee structure mid-session was expressly reserved. It has further been asserted that the enhancement of fees by the colleges was carried out in compliance with the directions issued by the State Government. Therefore, the next question that arises for consideration is whether, in circumstances where the power to revise the fee structure is expressly reserved, a mid-session or mid-course enhancement of fees can be legally effected, particularly when such enhancement is implemented pursuant to a binding decision of the Government or a competent regulatory authority.
41. Admittedly, in the instant case, in the document titled "*Fee Structure B.Tech (2023–2027)*", the word "Structure" has been used. However, it is also an admitted position that, on the very next page of the said document, it is specified that the fee structure is subject to change from time to time in accordance with Government decisions.

42. The notification dated 16.10.2023 was issued in supersession of all previous orders and/or notifications issued by the Department of Higher Education, Technical Branch, and it was stipulated therein that the notification would take effect from the date of its issuance. Notably, Section 21 of the General Clauses Act, 1897 provides that the power to issue a notification includes the power to amend, vary, or rescind it. Therefore, it can safely be held that the State is empowered to rescind the earlier notification and issue a fresh notification in its place.
43. The question that now arises for consideration is whether the notification can be given effect to in respect of students who have already taken admission in the four-year B.Tech course (2023–2027), as such application would result in a change in the fee structure.
44. Primarily, the resolution of the said questions must be traced to the language employed in the notification itself. In the notification dated 16.10.2023, it has been stipulated that the fee structure for the programmes shall continue for at least four (04) years in respect of the B.Tech and B.Pharma courses with effect from the academic session 2023–2024, and the details of the fee structure applicable for the academic year 2023–2024 have been specifically enumerated therein. The notification further clarifies that the tuition fees and other fees are applicable to students “to be admitted” in the first year of undergraduate Engineering and Technology, Pharmacy, and Architecture courses, as well as to students admitted through lateral entry, in self-financing Engineering and Technology, Pharmacy, and Architecture colleges in the State, with effect from the academic year 2023–2024.
45. Therefore, although the prospectus used the expression “*Fee Structure B.Tech (2023–2027)*”, the notification employs the phrase “*with effect from the academic*

year 2023–2024”. It is pertinent to note that, in the present case, the mode of payment of fees was on a semester-to-semester basis. Furthermore, Regulation 7(7) mandates that the total fee shall be divided according to the number of years or, as the case may be, the number of semesters of study for the course. At the first instance, only the fee for the first year or semester is required to be collected. In all cases, the fee chargeable by a professional college remains subject to the ceiling fixed by the Standing Committee.

46. Therefore, the *fee structure* has not been treated as indivisible either under the 1994 Regulations or under the notification dated 16.10.2023; rather, it has been divided according to the number of years or, as the case may be, the number of semesters of study for the course.
47. Mr. Dhar laid emphasis on the expression “*to be admitted*” to contend that the use of such words indicates that the notification is intended to operate prospectively. Mr. Chakraborty, however, refuted this contention and asserted that the expression “*to be admitted*” was used to qualify the category of students and not to indicate the time from which the notification would take effect.
48. In the present case, the academic year commenced in July 2023, with the first semester running from July 2023 to December 2023. The academic year 2023–2024 comprises three semesters, namely, July 2023 to December 2023, January 2024 to June 2024, and July 2024 to December 2024. Thus, it is evident that, despite being aware that the academic year had already commenced in July 2023, the effect of the notification dated 16.10.2023 was consciously given from the date of its issuance and from the academic year 2023–2024.

49. Undoubtedly, the use of the expression “*to be admitted*” gives rise to a degree of ambiguity. However, it is a well-settled principle that where a notification expressly specifies the date from which it is to take effect, such explicit stipulation prevails over any conflicting or ambiguous language appearing elsewhere in the notification. In that backdrop, the intention discernable from the notification is manifestly clear that the notification dated 16.10.2023 was intended to take effect from the date of its issuance and for the academic year 2023–2024 and the purpose of the notification was to determine the fee structure from the academic year 2023-24.

50. A prospectus or brochure ordinarily operates as a contractual arrangement between the student and the educational institution. Upon enrolment, a student is deemed to have accepted the terms and conditions set out therein. Where the prospectus expressly reserves the right to revise the fee structure in accordance with decisions taken by the Government, the institution may, in appropriate cases, enforce a mid-session enhancement of fees even in respect of existing students. It is pertinent to note that, in the present case, the enhancement of fees is a direct consequence of a binding governmental mandate and has been implemented with effect from January 2024.

51. Needless to state, the writ jurisdiction cannot be allowed to be invoked to facilitate the avoidance of contractual obligations voluntarily undertaken. The occurrence of hardship or inconvenience in the performance of conditions agreed to under a contract affords no justification for non-compliance with the terms of the contract, which the parties had accepted with open eyes.

52. Undeniably, the decision in *Shanker Doon & Ors.* (supra) was rendered in a different statutory framework. In that case, the dispute relating to the fee structure

pertained primarily to two academic years, namely, 2014–2015 and 2015–2016. The fee structure for the academic year 2014–2015 was sought to be revised on the basis of a notification dated 19.02.2016. Upon considering the applicable statutory provisions, the Hon'ble Division Bench of the Hon'ble High Court of Delhi held that the retrospective operation of the notification dated 19.02.2016 was impermissible. With regard to the academic year 2015–2016, it was noted that although a recommendation for revision of the fee structure had been made in November 2014, the notification giving effect to such recommendation was issued only on 19.02.2016 and was subsequently rescinded on 10.03.2016. In those circumstances, the Hon'ble Court permitted the college to charge fees as recommended, but only prospectively from the academic year 2015–2016.

53. Similarly, in the case of *Bindiya Khatri & Ors.* (supra), there existed a specific statutory provision, namely sub-section (14) of Section 4 of the Uttarakhand Unaided Private Professional Educational Institutions (Regulation of Admission and Fixation of Fee) Act, 2006, which provided that the fee determined shall be applicable to a student admitted in that academic year and that the fee applicable at the time of admission of a student shall not be revised until the completion of his or her course of study.
54. Therefore, the propositions laid down in the aforesaid two decisions cannot be applied to the case at hand.

Order:

55. Thus, for the reasons discussed and recorded in the preceding paragraphs, this Court is of the view that the contentions raised by the petitioners are devoid of merit and, accordingly, cannot be accepted.
56. Accordingly, the writ petitions, along with the applications, if any, filed in connection therewith, are dismissed. However, there shall be no order as to costs.

(Partha Sarathi Chatterjee, J.)

Later :

After the pronouncement of the judgment, Mr. Jahan, learned Advocate appearing for the writ petitioner, prays for a stay of the operation of this judgment.

I do not find any scope to pass an order staying the operation of the judgment dismissing the writ petition. Accordingly, the prayer is considered but rejected.

(Partha Sarathi Chatterjee, J.)