

## ABSTRACT

Higher Education – Judgement of 11 Judges Constitution Bench of Supreme Court of India, dated.31.10.2002 in W.P. (Civil) No.317/1993 in TMA Pai Foundation and others Vs state of Karnataka and others – Implementation with regard to prescription of fee in unaided professional institutions – Suggestions of the Government – Communicated.

---

### Higher Education (J1) Department

**G.O. (Ms) No.21  
Dated:13.2.2003.**

#### Read:-

1. G.O. Ms. No.218, Higher Education, dated. 24.6.2002.
2. Judgement of the 11 Judges Constitution Bench of Supreme Court of India in W.P (Civil)No.317/1993, dated.31.10.2002, in T.M.A. Pai Foundation and Others Vs State of Karnataka and Others.
3. Government letter No.7096/Law (Advocate General-Opn)/03/1, dated.28.1.2003.
4. From the Advocate General of Tamil Nadu D.O. Letter Roc. No. of 2003, dated.5.2.2003.

-----

#### ORDER:

The 11 Judges Constitution Bench of the Supreme Court of India in its judgement dated.31.10.2002 in W.P (Civil) No.317/1993 in TMA Pai Foundation and Others Vs State of Karnataka and Others, while dealing with the Private unaided educational institutions has held that,

“..... A rational fees structure should be adopted by the management, which would not be entitled to charge a capitation fee. Appropriate machinery can be devised by the State or University to ensure that no capitation fee is charged and that there is no profiteering, though a reasonable surplus for the furtherance of education is permissible .....” (Para 69 of the Judgement)

While answering Question No.5(c), the Supreme Court has held that,

“..... Fees to be charged by unaided institutions can not be regulated but no institution should charge capitation fee.”

2. The Government are conscious to the fact that the law declared by the Supreme Court binds everyone and the Government are bound to follow it. Before taking any firm decision with reference to the implementation of the law laid down by the Supreme Court mentioned in para 1 above, it was thought better to ascertain the views of the managements of the unaided professional colleges. Accordingly, the Government held a meeting with the managements of the unaided professional colleges in the State on 3.2.2003. About 200 managements of the colleges, both minority and non-minority have attended the meeting. Among other things, one of the views expressed by them relates to the prescription of fee to be charged by them from the students. Government also requested them to furnish their views in writing in the prescribed format on this point on or before 6.2.2003. Till 10.2.2003, 90 colleges have sent their views in writing. Out of the above,

1. (i) Majority of the managements have said that fees may be prescribed between Rs.35,000/- to Rs.40,000/-
2. (ii) Some managements have suggested prescription of fee as Rs.30,000/-.
3. (iii) Some managements have suggested a fee of Rs.49,000/-
4. (iv) Some managements have suggested a fee of Rs.42,000/-
5. (v) Some managements have suggested prescription of two categories of fees Rs.20,000/- to Rs.35,000/- as free seat and Rs.40,000/- to Rs.48,000/- as payment seat.

3. The Government examined the views expressed by the unaided professional institutions within the ambit of the law declared by the Apex Court and they have decided to issue necessary executive orders for the implementation of the law declared by the 11 Judges Constitution Bench of the Supreme Court of India in T.M.A.Pai Foundation case. They accordingly direct that, the Government need not fix the fee to be charged by the unaided professional institutions. However they advise the managements to consider fixing the fee as Rs.30,000/- per annum and further advise that meritorious students selected through the Single Window System be given some concession say Rs.5000/- in the rate of fee.

4. The Government direct that the orders issued in the G.O. first read above stand modified to the extent ordered in para 3 above in so far as it relates to unaided professional institutions including Polytechnic Colleges and Hotel Management and Catering Technology Institutions.

5. As per Section 3 of the Tamil Nadu Educational Institutions (Prohibition of Collection of Capitation Fee) Act, 1992, (Tamil Nadu Act 57 of 1992), Collection of Capitation fee is prohibited. The Government therefore direct that as per Section 7 and 8 of the Act, action will be pursued against the persons responsible for the violation of the provisions of the Act.

(By order of the Governor)

**V.K.SUBBURAJ,**

**SECRETARY TO GOVERNMENT.**

To

The Director of Technical Education , Chennai-25

The Registrar, Anna University, Chennai-25

The Director of Medical Education,Chennai-6

The Director of Agriculture, Chennai-6

The Director of Animal Husbandry, Chennai-

The Registrars of all Universities of Tamil Nadu

The Chairman/Chairperson of all the unaided professional colleges.

through (The Director of Technical Education, Chennai-25

The Director of Medical Education,Chennai-6,

The Director of Legal Studies, Chennai,

The Director of Agriculture, Chennai,

The Director of Animal Husbandry, Chennai)

Copy to

The Registrar General, Supreme Court of India, New Delhi

The Registrar General, High Court of Madras,Chennai-104

The Advocate General of Tamil Nadu, High Court of madras, Chennai-104

The Special Government Pleader(Education), High Court of Madras, Chennai.104.

The Ministry of Human Resource Development, New Delhi.

The Chairman, All India Council for Technical Education, New Delhi

The Regional Officer, Southern Region, All India Council for Technical Education,

Haddows Road, Chennai.

The Secretary I to Chief Minister, Chennai-9

The Senior P.A. to Minister(Health and Education),Chennai-9

The Chief Minister's Office, Chennai-9.

The Secretary to Government, Health and Family Welfare Department, Chennai-9.

The Secretary to Government, Law Department, Chennai-9

The Secretary to Government, Animal Husbandry and Fisheries Department,  
Chennai-9

The Public(Special A)Department,Chennai-9

The Public(SC)Department, Chennai-9

All Departments of Secretariat, Chennai-9

All Sections in Higher Education Department, Chennai-9

SF/SC.

// forwarded /by order //

**(P.P.MOORTHY)**  
**UNDER SECRETARY TO GOVERNMENT.**  
**for SECRETARY TO GOVERNMENT.**