

SPA No. 596 of 2018

with

SPA No. 640 of 2018

**Hon'ble Ravi Malimath, A.C.J.**

**Hon'ble Manoj K. Tiwari, J.**

Shri Rakesh Thapliyal, learned senior counsel, appearing for Shri Pankaj Chaturvedi, learned counsel for the appellants/review applicants in SPA No. 596 of 2018.

2. Shri Vinod Tiwari, learned counsel for respondent nos. 1 to 6 in SPA No. 596 of 2018.

3. Shri U.K. Uniyal, learned senior counsel, appearing for Shri Vipul Sharma, learned counsel for the appellant/review applicant in SPA No. 640 of 2018.

4. Shri Pradeep Joshi, learned additional chief standing counsel for the State of Uttarakhand.

5. There is a delay of 386 days in filing the review application (MCC No. 1508 of 2018) in SPA No. 596 of 2018. It is stated in the affidavit filed in support thereof that, after the order was passed, legal opinion was sought for from the learned counsels. There was a difference of opinion. Thereafter, it was decided that the review requires to be filed and, thereafter, the review application was filed and, in this process, there is a delay. The same is disputed by the other side.

6. On hearing learned counsels, we are of the considered view that the reason assigned constitutes sufficient cause. Hence, the delay condonation application (CLMA No. 18101 of 2020) is allowed, and the delay in filing the review application is condoned.

7. The plea of review-petitioners, in both the cases, is quite similar. It is their plea that the order under review requires to be recalled, in view of the fact that the finding recorded by the learned Single Judge, in para nos. 11 & 12 of the order, is erroneous that the fixation of fee by the Fee Regulatory Committee cannot be said to be prospective and, consequently, there cannot be any recovery of the enhanced amount from the students.

8. On hearing learned counsels, we are of the considered view that this matter requires to be reconsidered.

9. The order of the learned Single Judge having been affirmed, the question, whether the finding of the Fee Regulatory Committee can be held to be prospective and the consequential recovery, are matters to be determined finally.

10. In these circumstances, review applications (MCC No. 1508 of 2018 & MCC No. 99 of 2019) are allowed. The orders dated 09.10.2018 passed by Division Bench of this Court in SPA No. 596 of 2018 and SPA No. 640 of 2018 are reviewed and recalled. The Special Appeals are restored to file.

11. Post for hearing.

12. Stay of the orders dated 09.07.2018 of the learned Single Judge in WPMS No. 3433 of 2016 & WPMS No. 3462 of 2016, till further orders.

**(Manoj K. Tiwari, J.)**  
27.11.2020

**(Ravi Malimath)**  
**A.C.J.**  
27.11.2020

A.J.