

**CWP 8900 OF 2006 TITLED AS SHIV
MODERN SENIOR SECONDARY SCHOOL
AND OTHERS V/S STATE OF HARYANA.**

The Hon'ble Punjab and Haryana High Court, Chandigarh delivered this Judgement on 18.07.2006 regarding to allow the students studying in Private un-recognize schools to appear as regular student Board Examination for the current Academic Session i.e.2006-07.

Coram: Hon'ble Mr. Justice Viney Mittal
Hon'ble Mr. Justice H.S. Bhalla

Viney Mittal, J.(Oral)

By this common judgement, we shall be disposing of batch of writ petitions together, as the questions of facts and law involved therein are indetical in nature.

Shri S.P.S. Chaudhary, Deputy Director, Education, Haryana, is present in person. He has informed the Court that the process of framing of the new rules, governing the recognition of private schools in the State of Hayana, is pending consideration of the State Government. The new rules shall be framed on or before March 31, 2007 and shall be made applicable from the next ensuing academic session 2007-08.

With regard to the claim made by the petitioner (s) – School, Shri Chaudhary has very fairly stated that such schools, which has been granted the permission/provisional recognition in the previous academic session, i.e. 2005-06 and which have applied for the grant of necessary recognition, shall be granted one time concession, inasmuch as, the aforesaid schools shall also be deemed to be temprorality recognized for a period of one year alone and as such, students studying in the aforesaid schools shall also be entitled to appear as regular students for the current academic session, i.e., 2006-07.

However, Shri S.P.S. Chaudhary, has emphatically stated that the aforesaid concession granted to the said schools, would be only a one time concession to avoid the entire controversy and keeping in view the interest and career of the students, studying in the said schools and shall not be treated as a recognition of the infrastructural and other requirements being possessed by the said schools. SHri Chaudhary states that the claim of such schools for the grant of permission/permanent recognition shall be considered in the next ensuing academic session, i.e. 2007-08 in accordance with rules, which are to be framed by the State Government.

The aforesaid statement of Shri Chaudhary fully satisfies the learned counsel appearing for all the petitioners.

Consequently, we dispose of all the present petitions as having been rendered infructuous.

However, before parting with this order, we make it absolutely clear that the above statement of Shri Chaudhary shall only govern such schools, which had applied for permission/recognition and shall not be applicable to such schools, which have not even applied for such recognition.

We further make it clear that if anyone of the petitioners has any further individual claims, it would be at liberty to approach the authorities concerned in accordance with law and to seek its further remedies thereafter.

Copy of the order be given dasti on payment of usual charges.

Sd/-
Viney Mittal
Judge

Sd/-
H.S. Bhalla
Judge

ORDER

No. 7/75-97 PS (1)

Dated, Chandigarh

Whereas Faridabad Abibhavak Ekta Manch, Faridabad an NGO had filed CWP No. 15500/1997 in Hon`ble Punjab and Haryana High Court in 1997 to seek a writ of Mandamus for directing the respondents, including the CBSE, the HBSE & the HUDA to initiate action against respondent No. 6 to 30 for not following a rational fee structure, demanding exorbitant fee and various other allegation levelled against them. The Hon`ble Court passed the following orders on 11-3-2005:-

“Accordingly, we dispose of the writ petition with a direction to respondents No. 1 to 4 to treat the present writ petition as a representation and take a final decision thereon in accordance with law.

Needless to add that final decision on the representation shall be taken by the authorities concerned after affording adequate opportunity of being heard to affected parties.

The decision shall be taken as expeditiously as practicable and in any case not later than 4 months from today.”

This order is on behalf of respondent No. 1 and respondent No. 4 only. In compliance of the orders of the Hon`ble High Court the matter was examined and all the schools mentioned in the PIL were asked vide letter No. 7/75-97 PS 1 (4) dated 11-5-2005 to supply a detailed report regarding fees and funds charged during the last five years. Most of the schools failed to supply the required information. Thereafter, a personal hearing was given to all the concerned schools of Faridabad District vide letter No.7/75-97 PS 1(4) dated 20-5-05 with a copy of the representation of Faridabad Abhibhawak Ekta

Manch Faridabad as requested by the schools. Again another opportunity of hearing was given vide letter No. 7/75-97 PS 1 (4) dated 17-6-2005 to supply the fee structure etc. But the respondent's schools did not turn up on the fixed date along with required information. On non receipt of required information from the schools respondent No. 4 decided to send an inspection team to ascertain the facts from the school records and the inspection team headed by Additional Director, School visited the schools on 18/19-10-2005 to inspect the records pertaining to fee structure and concession granted to economically weaker sections in light of court directions in CWP No. 15500 of 1997. The team visited the following 7 schools namely:-

1. SOS Herman Gmeiner School, Sector 29, FBD.
2. DAV Public School, Sector 14, FBD.
3. Aggarwal Public School, Ballabgarh, FBD
4. APJ Ser. Sec. School, Sector 15, FBD
5. Modern Vidya Niketan, Sector 17, FBD
6. DPS Ser. Sec. School, Sector 19, FBD
7. Modern School Sector 17, FBD

Out of the above schools the schools namely; APJ Ser. Sec. School, Sector 15, FBD; Modern Vidya Niketan, Sector 17, FBD; Modern School, Sector 17, FBD; DPS Ser. Sec. School, Sector 19, FBD flatly refused to show the records to the inspection party. For the sake of justice, the schools were served with a show cause notice as to why they have not allowed to inspect the records as the same was required by the department for taking a decision as per directions of the Hon'ble High Court but the schools gave no satisfactory reply to the show cause notice, rather they contended that the Department has no

right to inspect the school records on the ground that schools are affiliated with the Central Board of School Education (CBSE), New Delhi.

Under the section 4 clause 6 of Haryana School Education Act, 1995 every existing recognized school or schools which are already affiliated with Boards or Council Indian School Certificate Examination other than Board of School Education, Haryana, shall be deemed to have been recognized under this section and shall be subject to the provisions of this act and the rules made there under. Hence the Department has every right to inspect the school records which are existing in the State of Haryana irrespective of the fact that they are affiliated with any Boards other than the Haryana School Education Board.

As per provision made in rule 187 of Haryana School Education Rules, 2003, **“The Director is competent to authorize to any officer(s) for inspection of all or any of the functions and activities of the recognized school. The school authority shall allow the inspection of record as required by the inspecting officer.”**

The officers who were authorized to inspect the said records of the above stated schools were not allowed to inspect the same. Thus the managements of the schools acted in total violation of the provisions of this rule which is a refusal to accept the authority of the Director conferred under law. Hence the said managements made their selves for the action stated in rule 43 (1) (a) which runs as under:-

“(1) The appropriate authority may withdraw/suspend the recognition of a school after giving a reasonable opportunity against the proposed action

to be taken against the school in the following circumstances:-

- (a) if a school ceases to fulfill any requirement of the Act or any of the conditions of these rules.”

The said managements of the schools were given reasonable opportunities as detailed above to show cause against the proposed penal action but they miserably failed to give any plausible reasons for not allowing the inspection of school records. Rather in their replies they challenged the authority of the Director given under the provisions of the Act and Rules. Three schools namely APJ Sr. Sec. School, Sector 15 FBD, Modern Vidya Niketan, Sector 17, FBD and Modern School, Sector 17, FBD which flatly refused for the said inspection were de-recognized from the next academic session starting from 1-4-2007 vide order 7/75-97 PS(1) dated 23-10-2006. (copy enclosed)

For the remaining schools a committee headed by Additional Director School with Deputy Director, ADA and Accounts Officer was constituted to ascertain the facts of the information in regards to fee, funds, concessions, facilities etc. provided by these schools. The committee visited Faridabad on 11-12-2006. The proceedings of the committee are at Annexed-R-1. As per proceeding all the schools affiliated with the CBSE, the following things came up after mutual understanding to be observed in letter and spirit in future by all the concerned schools:-

1. Reservation in Admission: -

All the participant schools agreed to grant reservation in admission to the students of weaker sections irrespective of reservation required/or not under HUDA By-Laws or State Govt. policy/

instructions. All the schools agreed to give undertaking to abide by the instructions/rules of the Government issued from time to time.

It was further decided that there should be a committee to monitor the reservation policy for the students of weaker section if the applications received are more than the available number of seats and the committee will be consisting of following members: -

- a. Representative of Education Department.
- b. Representative of School management
- c. Head of P.T.A. of the School

2. Fee Structure: -

The fee structure will be fixed by the PTA Body according to the bye-laws of CBSE from the next academic session. The school authorities will supply the fee structure of the school before start of next academic session every year to the Director and DEO, Faridabad as required under rule 158 of Haryana School Education Rules 2003. This list will also be displayed on the notice board and press/public notice will also be issued so that the whole information is public domain. A copy of the same will be supplied on demand on actual expenses to any parent or citizen.

3. No Shop in School Premises: -

The President of the CBSE affiliated schools ensured that they would issue a circular to all the schools running in the state affiliated with the CBSE that they would not operate any shop/outlet

or other business like activities for books and dresses etc. in the school premises.

4. All the schools have now submitted the required information alongwith undertakings referred at Sr. No. 1 regarding reservation in admission in future. No school refused inspection of record relating to fee structure and facilities provided by them. In token of their agreement the committee visited the four schools. The facilities provided by these schools were of good standard.
5. All the schools shall follow all the provisions of Haryana School Education Act, 1995 and Rules, 2003 and instructions issued by the Government from time to time.
6. Though a detailed comparative assessment of fee charged and facilities provided at this moment can not be made. However, the management would submit their proposal of fee structure in the coming academic session before the PTA meeting as per the guidelines of the CBSE and change will be made as agreed jointly by managing committee and the PTA. Any anomaly/discrepancy pointed out will be resolved by the department as per law. All such decision will be conveyed to the DEO, Faridabad for necessary action.
7. Two schools namely Harman SOS, Air Force school were not present in the meeting. However, the information supplied by them is available in the office.

The fee structure supplied by these schools is at Annexed-R- 2.

8. The three schools de-recognized vide letter No. 7/75-97 PS (1) dated 23-10-2006 made appeal before the Financial Commissioner and Principal Secretary to Government of Haryana, Education Department, against the orders of Director. The appellate authority set aside the orders of Director with the under taking given by all these schools that they will make available all their records and will follow the provisions of Haryana School Education Rules 2003. The fee structure of these schools and inspection will now be carried out shortly.
9. The provisions of Haryana School Education Rules, 2003 are reproduced below: -

“158 (1) Notifying fees and funds. Sections 24 (2), 15,16 and 17— The fees and funds to be charged from the pupils shall be notified by every Recognised school.

- (2) The manager of every recognised school shall submit the detail of the minimum facilities being provided and the maximum fee charged in form VI. He shall before the commencement of the each academic session, file with the department the full statement of the fees and all types of funds levied by such school during the ensuring academic session justifying it. No such school shall charge any fee in excess the fee/ funds specified by

the manager in the said statement during the academic session. Each school shall submit Performa duly filled in by 1st January of every year to the appropriate authority which shall publicly display these details. Such charges can only be levied after these have been displayed in its wamper.

- (3) No other charge such as capitation fee shall be taken from the children/parents.”

A combined reading of these rules alongwith section 15,16 & 17 of Haryana School Education Act, 1995 indicates that the Director, is not competent to fix the fee structure of these schools but he can certain ensure transpancy in the fee structure bringing it in public domain. All the respondent schools have now agreed to follow the provisions of Haryana School Education Rules, 2003 and to provide details of fee structure every year to the Director or his representative as per the proceedings at Annexed-R-1.

I therefore, order that all these schools shall provide fee structure every year to the Director, or his representative under the provision of Rule, 158. The concerned District Education Officer as well as the schools shall make available the fee structures of these schools to any member of public on demand. Any violation will make the concerned school(s) liable them for action under Rule 43 of Haryana School Education Rules 2003. These orders be sent to all the DEOs in Haryana for strict compliance and wide publicity for attention and compliance by all recognized schools running in the state.

Sd/-

Anil Malik

Director School Education,
Haryana, Chandigarh

To

All respondent schools (as per list).

Endst. No. **Dated, Chd. The 10-1-2007**

A copy is forwarded to the District Education Officer, Faridabad to give wide publicity to fee structure etc. supplied by these 21 schools and ensure fee charged by these schools are according to the statement supplied by them.

Sd/-

Assistant Director (S)
for Director School Education,
Haryana, Chandigarh

Endst. No. **Dated, Chd. The 24-1-2007**

A copy is forwarded to All District Education Officers in the State. They are requested to collect the fee structure from the recognized schools affiliated with Haryana School Education Board or CBSE or any other Board running in their respective District and give wide publicity of fee structure etc. supplied by these schools. The District Education officer shall make available the fee structure of the concerned schools to any member of public on demand and also ensure that the fees charged by these schools are in accordance with the statements supplied by them.

Assistant Director (S)
for Director School Education,
Haryana, Chandigarh

Important Instructions/Court Cases

1. St. Anthony's Sec. School Sec.9, NIT Faridabad
2. St. Joseph's Convent School Sec.5, NIT, Faridabad.
3. K.L.Mehta Dayand Public School, sec.16 Faridabad
4. Udaya Bharti, Public School Sec.14 Faridabad.
5. St. John School, A block Sec.7 Faridabad.
6. DAV Public School , Sec.14 Faridabad.
7. Geeta Bal Niketan Sr.School 3E/Park, NIT Faridabad.
8. Herman Gemeiner School Sec. 29 Faridabad.
9. Carmel, Convent School Sec.7-D Faridabad.
10. Aggrawal Public School, Ballabgarh, Faridabad.
11. K.L.Dayanad Public School No.1Nehru Ground, NIT Fbd. 12 Air Force School, c/0 56 ASP Faridabad
13. Rama Krishan Public School Vivekanand Ashram, Fbd.
 - (i) St. Thomas School Sec.8 Near Market, Faridabad.

Important Instructions/Court Cases

15. B.N Public School Badrinath Mandir,
NH-2C Faridabad.
16. Divine Public School, Sec.11-B
Faridabad.
17. Tiny Tots High School, Sec.19/ 1173
Faridabad.
18. Sh.Taru Ram Arya Kavya Uchatam
Madhmik Vidyalaya

Bhimsain colony, Ballabgarh
Faridabad.
19. St. Abbans School. Sec.15 Faridabad.
20. Gold Field Public School Sec.21-ANIT,
Faridabad
21. DPS Faridabad