

From

Financial Commissioner & Principal Secretary to
Govt. of Haryana, Education Department
Chandigarh

To

1. Director Secondary Education,
Haryana, Chandigarh.
2. Director Primary Education, Haryana,
Chandigarh.

Memo No. 20/1-96 S-I (4)

Dated, Chandigarh, the 9.5.2005

**SUBJECT: - CWP NO. 8094 OF 1997 REGARD-
ING RUNNING OF PRIVATE
SCHOOLS IN RESIDENTIAL
BUILDINGS.**

Kindly refer to the above subject.

I am directed to say that the Hon'ble Punjab and Haryana High Court in CWP No. 8094 of 1997 has directed the State of Punjab and Haryana and Chandigarh Administration to close down Private Schools running in residential buildings and buildings not earmarked for schools by 30.4.2005. The field offices and Association of Private Schools raised some doubts in application of Court orders in Rural, Urban Areas and HUDA Colonies. It has been decided as follow: -

- a. **Regarding schools running in residential premises in the areas developed by HUDA:**

In the colonies developed by HUDA, there is clear distinction between residential and commercial buildings. Even sites have specifically been earmarked for schools. There is a provision for resumption of the site/

building if the same is being used for a purpose other than for which it was allotted. Therefore, there should be no difficulty in closing down schools operating from residential buildings/premises or the building not earmarked for schools in the HUDA colonies.

b. Regarding schools running in Municipal Areas:

In so far as the schools running in the municipalities are concerned, we have to exercise caution because in the Municipal Act, there is no clear distinction between a residential building or a commercial or a school building. It is only the word 'building' which has been defined in sub-section(2) of section 2 of the Haryana Municipal Act. In Haryana Municipal Building Bye-laws, 1982, however, there is a classification of buildings based on occupancy. As per bye-law 2(xiv), all buildings whether existing or hereafter erected have been classified according to the use or the character of occupancy as residential building, public buildings, commercial buildings, warehouses and industrial buildings. Residential building means a building used or constructed or adopted to be used wholly or principally for human habitation and includes all garages, stables and other houses appertinent thereto. Public building would include a building used or intended to be used either ordinarily or occasionally ascollege, school..... . This classification in the bye-laws has been made purposely. Bye-law 13 provides that type and character of building including ancillary building that may

be erected or re-erected on a site and the purpose for which this may be used shall not be other than that shown in the 'area plan' or the 'approved lay out plan' and where the site does not form a part of such an area plan of lay out plan, the use shall be in conformity with the use of the surrounding area and the decision of the committee shall be final in that respect.

In so far as the buildings/premises forming part of an area plan or the approved lay out plan are concerned, there would be no difficulty. If the type and character of a building does not match the type and character earmarked in the 'area plan' or the 'approved lay out plan' or if a building is being used for a purpose other than what has been provided in the 'area plan' or the 'approved lay out plan', action under section 204 or section 208 of the Municipal Act, as the case may be, would be competent.

However where the site does not form part of an 'area plan' or 'approved lay out plan', the Committee shall have to see if the use of the premises/buildings is in conformity with the use of the surrounding area. For that purpose, the Committee shall have to take a conscious decision keeping in mind the type and character of the area and the time since when a particular building/premises is being used for a particular purpose. In case the committee finds that the use of a particular building/premises is not in conformity with the use of the surrounding area, it would be competent to issue directions to stop such use and on violation of the directions, action under sections 208 and 223 of the Municipal Act could be taken.

c. Regarding Schools running in Rural Areas:

In so far as rural areas are concerned, there is no distinction between a

residential, commercial, public or a school building. No site plan is required to be sanctioned for erecting or re-erecting a building in a rural area. Therefore, it would be difficult to direct the schools running from a so-called residential building/premises in the rural areas to close down. In other words, bringing the schools operating in rural areas within the purview of the directions of the Hon'ble High Court would not be proper.

d. Regarding Schools running in Slum areas:

The schools running in slum areas or illegal colonies have no sanctity. Therefore, the schools running in slum areas or illegal colonies have to be closed down but care needs to be taken to ensure that a general decision for the removal of illegal colonies/slum areas is first taken. Otherwise, it may not be legal or possible to single out a particular building.

e. Regarding Creche:

A crèche is a nursery where children are cared for while their mothers/parents work. Therefore, strictly speaking, a crèche would not be a school. By very nature of its function, a crèche would be required to be operated from a residential building unless a specific provision is made otherwise. Therefore, it appears that the direction of the Hon'ble High Court would not cover crèches.

4. It was also decided that the norms as laid down in Haryana School Education Rules, 2003 be

expeditiously reviewed in consultation with private school managements keeping in view the realities at the ground level and also the health, welfare and safety aspects of the students.

You are requested to inform all concerned accordingly and ensure the compliance of directions of the Hon'ble Court.

Under Secretary Education
for Financial Commissioner & Principal Secretary
to Govt. of Haryana, Education Department

Endst No. Even Dated, Chandigarh, the 9.5.2005

A copy is forwarded to the following for information and necessary action: -

1. All Deputy Commissioners in the State of Haryana.
2. District Education Officer in the State of Haryana.
3. District Primary Education Officer in the State of Haryana.

Under Secretary Education
for Financial Commissioner & Principal Secretary
to Govt. of Haryana, Education Department