

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No.16425 of 2015
Decided on : 17.11.2015**

The Heritage School

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr. Jasmeet Singh Ghuman, Advocate
for the petitioner.

Mr. L.S. Virk, Addl. AG, Punjab
for respondents No.1 and 2.

Mr. Harsh Aggarwal, Advocate
for respondent No.3-CBSE.

G.S. Sandhawalia , J. (Oral)

The challenge in the present writ petition is to the order dated 27.01.2015 (Annexure P-3) vide which the petitioner-school was granted provisional recognition for a period of 2 years i.e. 01.04.2013 to 31.03.2015 by respondent No.2.

The plea taken is that a minimum period of 3 years has been prescribed as per Form-II of the Punjab Right to Free and Compulsory Education Rules, 2011. It has been further pleaded that renewal of the provisional recognition by the petitioner-school is pending and respondent No.2 has not taken any steps to grant any recognition for the years 2015-2018.

The petitioner-school has applied for affiliation from CBSE-respondent No.3 on 28.05.2014 in anticipation of the grant of provisional recognition and the order dated 27.01.2015 (Annexure P-3) has come after 2 years from the date of the application and,

therefore, the petitioner-school is aggrieved as the respondent No.3 vide order dated 22.05.2015 (Annexure P-4) has rejected the request for the provisional affiliation on account of the fact that the recognition was only till 31.03.2015.

Respondents No.1 and 2 in its reply submitted that the Right to Free and Compulsory Education Act, 2009 came into force on 01.04.2010 and the Punjab Right to Free and Compulsory Education Rules, 2011 came into force from 12.10.2011. As per Section 23 of the Right of Children to Free and Compulsory Education Act, 2009 teachers had to acquire the minimum qualifications within a period of 5 years from the commencement of the Act and the provisional recognition for 2 years was issued from 01.04.2013 to 31.03.2015. It has been further admitted that the petitioner-school applied for renewal on 16.06.2015 and the petitioner-school did not have any qualified teacher till 31.03.2015 as per requirement of the Act.

The petitioner-school has taken the plea that appointment of additional TET qualified teachers Mr. Munish and Ms. Aarti has been done and the TET eligibility certificates have been attached as proof.

To counter that the State filed rejoinder that as per requirement of the Act there was no Science and Math's TET Teacher appointed and, therefore, the statutory fulfilment was missing.

It has been argued that the petitioner-school was established in April 2012 which is the case of the respondents also and as per the statutory conditions 5 years period has to be given from the commencement of the Act. The purpose of the Act would thus mean that the petitioner-school would be given a period of 5 years to remove the deficiencies.

The petitioner's application is already pending for renewal. Without observing on the merits of the application, which is still pending for consideration, this Court at this stage deems it fit that a fresh decision be taken on the said application expeditiously. It is the case of the petitioner-school now that the teachers which had been employed now have acquired the requisite qualifications. The said aspect is a factual aspect, which will necessarily have to be gone into by respondent No.2.

Accordingly, the present writ petition is disposed of with a direction to respondent No.2 to take a fresh decision on the pending application on the requisite material which will be produced by the petitioner-school regarding its eligibility.

Needful be done within a period of 2 weeks from the receipt of the certified copy of this order.

NOVEMBER 17, 2015
Naveen

(G.S. SANDHAWALIA)
JUDGE