

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No.21754 of 2013(O&M)

Date of decision: 7.9.2015

Ram Chander and others

...Petitioners

Versus

State of Punjab and others

...Respondents

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

Present: Mr. Tribhuwan Singla, Advocate for the petitioners.

Mr. Aman Bahri, Addl. Advocate General, Punjab
for respondents No.1 to 5.

Mr. Prateek Mahajan, Advocate for respondents No.6 and 7.

G.S.SANDHAWALIA, J. (Oral)

The claim in the present writ petition is for issuance of a direction to respondents no.6 and 7 to allow the wards of the petitioners to study in their respective schools free of cost under the Right of Children to Fee and Compulsory Education Act, 2009.

Admittedly, the petitioners filed representations (Annexure P/2 Colly) and the said representations were rejected vide order dated 6.6.2013 (Annexure P/3) by the District Education Officer on the ground that there were Government/aided schools within the radius of 1 K.M. from the house and the petitioners could not get his children admitted in private schools under 25% quota. In case Government/aided schools refused to provide admission, the application could be submitted to the District Education Officer.

In the reply filed on behalf of respondents no.6 and 7, it is submitted that a complaint can be filed before a three members Committee notified by the State Government and the appeal lies before the State Government and the petitioners had not availed their alternative remedy.

Faced with this situation, counsel for the petitioners submits that the order was passed by the District Education Officer, Barnala and it was not decided by the Committee which is to be constituted by the State Government. Rule 7 (6) & (7) of the Punjab Right of Children to Free & Compulsory Education Rules, 2011 (hereinafter referred to as "the Rules") provides that person aggrieved from the procedure of admission is at

liberty to make representation to the Committee to be constituted by the State Government and against the said decision an appeal can be filed before the State Government. Rule 7(6) & (7) of the Rules reads as under:-

“7. Admission of children belonging to weaker section and disadvantaged group :

xxx

xxx

xxx

(6) If any person feels aggrieved from the procedure of admission referred to above, he will be at liberty to make representation in this regard to the committee to be constituted by the State Government in every district.

(7) If any person feels aggrieved from the decision of the committee referred to in sub-rule(6), he may file an appeal to the State Government within a period of one month from the date of decision of the committee.”

In such circumstances, the order which has been passed is not by the competent authority. The respondent no.3 shall ensure that the matter is placed before the Committee which shall decide the request of the petitioners keeping in view the statutory provisions which would entitle them for their rights. The said exercise be carried out within a period of two months from the date of receipt of the certified copy of this order.

Accordingly, the present writ petition is disposed off.

September 07, 2015
Pka

(G.S.SANDHAWALIA)
Judge