

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No.1863 of 2015

Date of decision: 3.12.2015

D.A.V.Sr. Sec. School, Khandsa Road, Gurgaon

...Petitioner

Versus

State of Haryana and others

...Respondents

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

Present: Mr. Ajay Chhikara, Advocate for the petitioner.

Mr. Keshav Gupta, Assistant Advocate General, Haryana
for the respondents.

G.S.SANDHAWALIA, J (Oral)

The petitioner seeks a writ of mandamus directing respondent no.2 to rectify the mistake of granting recognition only for 10+1(XI) vide order dated 8.2.2000 (Annexure P/1).

It is the case of the petitioner that grant of recognition for the whole course of 10+2 under the 10+2 system of education should be there for all faculties Arts, Commerce and Science of the senior secondary stage.

The pleaded case of the petitioner is that in the year 1999, the petitioner-school which is running at Khandsa Road, Gurgaon was inspected. The parameters were found according to the terms and conditions due to which permanent recognition for 10+ 1 only was given on 08.02.2000 which was incorrect as there is only 10+2 system of education. It is submitted provisional recognition was thereafter granted for 10+2 vide order dated 24.9.2001 (Annexure P/2). The petitioner's name was also mentioned at serial number 130 of the list of the schools under the Haryana School Education Rules, 2003(Annexure P/6). On 4.6.2003 an application (Annexure P/3) was submitted that the necessary amendment be carried out in order dated 8.2.2000 as the earlier order was against the rules and regulations and the case was forwarded to respondent no.2-the Director, Secondary Education, Haryana by respondent no.4 and inspection was carried out in the year 2006. Thereafter, legal notice dated

21.10.2011 (Annexure P/7) was also served for granting permanent recognition. Respondent no.4 vide letter dated 31.3.2013 (Annexure P/8) had also recommended the case of the petitioner that permanent recognition should be given upto 10+2. On account of no action being taken, the petitioner had again to serve legal notice dated 2.6.2014 (Annexure P/10). Resultantly, the present writ petition has been filed for the necessary relief.

In the written statement filed, the plea taken was that temporary recognition had been given upto 10+2 level vide order dated 8.2.2000 but there was a clerical mistake and +2 was struck off from the letter dated 8.2.2000 and thereafter the school was granted provisional recognition upto +2 level vide order dated 24.9.2001. The deficiencies pointed out had not been removed till date despite repeated reminders. The Haryana School Education Rules, 2003 were amended in 2004 and the school was directed to apply afresh. It is further submitted that there was a provision under Rule 39 of the Haryana School Education Rules, 2003 amended in 2004, that the recognition could be reviewed after ten years, if the managing committee fails to comply with the conditions specified in the rules. In case of the petitioner, 14 years have elapsed and therefore, inspection had been conducted on 4.9.2015 and certain deficiencies were found. The deficiencies have been mentioned in the written statement and it has been averred that when the school removes the deficiencies, case of recognition of the school will be considered without any delay.

From the above narration of facts, it would be apparent that the petitioner has been running the school since 2000 and a perusal of Annexure P/1 would go on to show that it had been given permission for +2 classes also as under various clauses facilities pertaining to management, recruitment, appointments had to be started. The relevant clauses read as under:

“1. Management of this concerned school will not demand any financial help/grant or post from the state/Department for 10+2 system of education and will provide all essential resources/facilities for the students on their own expenses.

- 2. Recruitment of teachers for the 10+2 system of education shall be conducted for all the classes according to the Department and qualifications, means that only those should be appointed as teachers who are having 50% or more marks/in the MA/MSc/Mcom subjects and all the conditions of co-education shall be followed. All other recruitments should be done according to the qualifications/rules framed by government of Haryana.*
- 3. Arrangement shall be made for proper furniture for all the students.*
- 4. Appointment should be made according to the rules for +1 and +2 classes and management will provide full pay from their own resources and will not ask government for any financial assistance.*
- 5. School will follow all the conditions laid down in higher education code.*
- 6. Only those subjects/facilities will be started by the school under 10+2 system for which resources/facilities of teaching/learning are available in the school and for which department has given permission.”*

In such circumstances, the stand taken by the State does not seem to be justified where they have said that there was clerical mistake as such. At no point of time for all these 15 years, any objection had been raised that the petitioner had wrongly been applying for provisional recognition. It is only when notice was issued on 20.2.2015 by this Court, the respondents have woken up and started having a rethink about recognition of the school.

However, since under the Haryana School Education Rules, 2003 as per Rule 39 duly amended there is a provision of review. It is always open for the authorities to examine whether schools are being run as per the regulations and since a show cause notice has been issued after inspection on 04.09.2015 (Annexure R1), it would be premature to comment upon the deficiencies, if any, which are present at the site. It is for the respondents authorities to take a decision on the same.

Accordingly, the present writ petition is disposed of with a direction that the petitioner shall reply to the said show cause notice within a period of four weeks from today. If the petitioner files the reply within stipulated time, respondent no.2 will consider the said reply and take a final decision on the recognition issue within a period of three months from the date of receipt of the said reply. In view of the facts and circumstances of the case, it would be appropriate that the petitioner's authorized representative is given a personal hearing at the time of decision making.

With the aforesaid observations, the present writ petition is disposed of.

December 03, 2015
Pka

(G.S.SANDHAWALIA)
Judge