

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

CWP No.2791 of 2015
Date of Decision: 31.03.2015

Don Bosco Global School, Ferozepur

. . . .Petitioner

Versus

Central Board of Secondary Education

. . . . Respondent

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.Sumeet Goel, Advocate,
for the petitioner.

Mr.Harsh Aggarwal, Advocate,
for the respondent.

RAKESH KUMAR JAIN, J.

The petitioner has prayed for the issuance of a writ in the nature of certiorari for quashing order dated 22.5.2014 passed by the respondent/CBSE withdrawing the provisional affiliation of the petitioner with immediate effect.

In short, as per the case of the petitioner, it was granted composite provisional affiliation for secondary school examination by the respondent for a period of three years w.e.f. 1.4.2011 to 31.3.2014, vide letter dated 25/28.2.2011. The respondent, after inspection, granted affiliation to the petitioner for up-gradation to 10+2 level, from secondary to senior secondary, for a period of three years i.e. from 1.4.2013 to 31.3.2016, vide letter dated 14/20.12.2012.

The petitioner was allegedly intimidated by the respondent on 13/21.2.2013 about a complaint made by Hardip Singh Gill. The petitioner allegedly clarified its stand, vide letter dated 8.3.2013, but thereafter, the respondent conducted an enquiry by a Committee comprising of two members, who after their visit to the school on 10.4.2013, submitted its report, on the basis of which a *show cause notice* was given to the petitioner and thereafter, vide order dated 22.5.2014, the provisional affiliation was withdrawn.

Learned counsel for the petitioner has argued that the impugned order is against the principle of natural justice as neither any fair and reasonable opportunity was given nor a speaking order has been passed. It is also submitted that even otherwise, the petitioner has its land more than required under the rules.

On the other hand, learned counsel for the respondent has submitted that the petitioner had forged the signatures of the Tehsildar, Ludhiana West and used a fake rubber stamp while submitting the sale deed which has been proved and established by SIFS India (Sparkle Institute of Forensic Science of India). It is also submitted that as per the affiliation bye-laws, the School/Society should have at least two acres of land with proper play grounds as per bye-law 3(3)(ii) of the affiliation bye-laws and the teachers should be paid salaries and admissible allowances, not less than the corresponding categories of employees of the State Government. In this regard, the relevant bye-law 3(3)(v) of the affiliation bye-laws is reproduced as under: -

*“The school in India must pay salaries
and admissible allowances to the staff
not less than the corresponding*

categories of employees in the State Government schools or as per scales etc. prescribed by the Government of India. The schools outside India should pay salaries not lower than those of the teachers in Government schools in that country or not less than the salaries and foreign allowances payable to KVs teachers if officially posted to that country. A certificate to this effect should be obtained from the Indian Diplomatic Mission.”

It is further submitted that as per bye-law 17(2)(b) of the affiliation bye-laws, the school can be disaffiliated for various illegalities, irregularities and misconduct etc.. The said bye-law 17(2)(b) of the affiliation bye-laws is reproduced as under: -

“Once Provisional/ Regular/ Permanent Affiliation granted to the schools is withdrawn by the Board on establishment of serious irregularities which amount to cheating the Board/ causing embarrassment to it, the Board may Black List such a school to debar it from seeking re-affiliation in future”.

It is also submitted that as per bye-law 17(2)(a)(i) of the affiliation bye-laws, the salaries are to be paid as per the Government grades. The said bye-law 17(2)(a)(i) of the affiliation bye-laws is reproduced as under: -

“Not paying salaries and allowances to teachers and other employees, at least at par with those obtaining in State/ Union Territory Institutions; default of

delay in payment of salaries and allowances”.

The other provisions of the affiliation bye-laws are 17(2)(a)(xi) and 23(iv), which are reproduced as under: -

“17(2)(a)(xi):- Any other misconduct in connection with the admission/ examinations/ any other area which in the opinion of the Board warrants immediate disaffiliation of the school”.

“23(iv): - Be responsible for the proper maintenance of accounts of the school, school records, service books of teachers, and such other registers, returns and statistics as may be specified by the Society/ Board”.

It is further averred that the inspection Committee comprising of Sh. S.P. Rana, Joint Secretary (A&V), CBSE and Sh.S.S. Sehrawat, Dy. Commissioner (Retired), KVS Delhi, inspected the school on 10.4.2013 and submitted its report on 18.4.2013 in which it was established that the school is violating the bye-law 15(9) of the affiliation bye-laws as it has been running class 9th in the session 2010-11 without affiliation for senior school certificate examination and the school had further, in violation of the affiliation bye-laws, got the students registered through Kamla Montessori School, Hisar Road, Sirsa for the same year and both the schools had issued marks statement for class 9th to 11th students. It was also found by the Committee that the school was paying its staff ₹8000/- per month on contract basis.

I have heard both the learned counsel for the parties and perused the record.

The provisional affiliation was withdrawn on the report of the Committee, who had found the following short comings: -

“1. The school, before its affiliation with the Board had sponsored its 11 students of class IX through another school viz, Kamla Montessori School, Hissar Road, Sirsa, Haryana, which enrolled these 11 students and registered for class X exams of CBSE in 2012.

2. The school had produced fake documents of land for seeking affiliation with the Board.

3. The school has appointed most of the staff on fixed salary of Rs.8,000/- per month.

4. The school withholds original certificate of the staff illegally.”

The petitioner was given a *show cause notice* and after reply, the impugned order has been passed, inasmuch as, opportunity was given to explain and comment upon the complaint made by Hardip Singh Gill and secondly the inspection was conducted in the presence of the school authorities. The *show cause notice* was issued with the report of the Committee which was duly replied and then the impugned order was passed. Even during the course of arguments, learned counsel for the respondent could not deny the fact about the forgery of the sale deed but all that has

been argued is that the translated copy of the sale deed was different from the sale deed in vernacular.

Thus, in these facts and circumstances, no fault can be found with the impugned order specially when the petitioner is paying fixed salary of ₹8000/- to the teachers, in violation of the bye-laws, and also withheld the original certificate of the staff to maintain pressure upon them so that they may not leave the job.

In view of the aforesaid discussion, I do not find any merit in the present petition and the same is hereby dismissed.

31.03.2015

Vivek

**(RAKESH KUMAR JAIN)
JUDGE**