

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

Civil Writ Petition No.17151 of 2015

Date of decision: 26.9.2016

Asian Education Society

...Petitioner

Versus

State of Haryana and others

...Respondents

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

Present: Mr. Ramesh Sindhar, Advocate for the petitioner.

Mr. J.S.Bedi, Addl. Advocate General, Haryana
for respondents no.1 and 2.

Mr. D.K.Khanna, Advocate for respondent no.3

G.S.SANDHAWALIA, J. (Oral)

The petitioner challenges the order dated 19.3.2015 (Annexure P/7) vide which respondent no.3-Board has imposed a fine of ₹ 3 lacs upon it. Challenge has also been raised to order dated 11.6.2015 (Annexure P/9) whereby the decision dated 8.5.2015 (Annexure P/11) of the Board of Directors in appeal was conveyed on 3.7.2015 (Annexure P/11 (Colly)) vide which the appeal of the petitioner-school was dismissed.

It is not disputed that in pursuance of the said order, the petitioner-school has also deposited a sum of ₹ 3 lacs with the respondent no.3-Board vide receipt dated 16.6.2015 (Annexure P/10 (Colly)).

The grouse of the petitioner is that vide show cause notice dated 11.9.2014 (Annexure P/5), the petitioner-school had been asked to clarify its position on account of violations found in the surprise check made on 11.8.2014.

A perusal of the said show cause notice would go on to show

that dispute was with regard to presence of only two students out of 13 students of 12th class and none out of 11 students of 11th class. Apart from that there were discrepancies found in the attendance register and transfer certificate and thus there was alleged violation of Rule 10 B of the Affiliation Rules.

The petitioner-school filed a detailed reply on 17.9.2014 (Annexure P/6) bringing to the notice of the respondent-Board that the team had arrived at 12.00 noon and time-table for 10+1 and 10+2 classes was upto 11.40 AM. Various others explanations had also been given in the reply. Unfortunately the same was not considered while passing the impugned order dated 19.3.2015 (Annexure P/7) whereby a fine of ₹ 3 lacs was imposed. A perusal of the said order would go on to show that the contents of the show cause notice have been repeated and thereafter having found the reply not satisfactory, the amount of fine was directed to be deposited.

The petitioner thereafter filed an appeal giving explanation which again has been brushed aside by the Appellate Authority on the ground that the petitioner-school had admitted the shortage in the number of students and the said appeal has been dismissed vide order 3.7.2015 (Annexure P/11(Colly)).

A perusal of the said order would go on to show that the same has been passed in an arbitrary manner by which a huge amount of fine of ₹ 3 lacs have been imposed without even considering the explanation of the petitioner-school. The same mistake was made by the Appellate Authority also which sought to justify the same on the ground that the petitioner-school had admitted the allegations made which as noticed above was not

the case. It is settled principle that reasons should flow from the reading of the order so that the same is justifiable and in the absence of the same, the order in question cannot be justified.

In such circumstances, this Court is of the opinion that the impugned orders dated 19.3.2015 (Annexure P/7) and 8.5.2015 (Annexure P/11) cannot be held to be sustainable and the same are quashed. The respondent-Board is directed to refund the amount of ₹ 3 lacs to the petitioner-school within a period of one month from the date of receipt of certified copy of this order. It is, however, open to the respondent-Board to take a fresh decision on the said show cause notice after taking into consideration the reply which was filed by the petitioner-school. In case the same is to be done, the necessary exercise be completed within a period of three months from the date of receipt of certified copy of this order.

Accordingly, the present writ petition is allowed.

September 26, 2016
Pka

(G.S.SANDHAWALIA)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No