

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

CWP No.19974 of 2016 (O&M)

Parents Association of Manav Rachna School and another

... Petitioner

Versus

State of Haryana and others

... Respondents

(2)

CWP No.20089 of 2016 (O&M)

Haryana Parents Forum for Education

... Petitioner

Versus

State of Haryana and others

... Respondents

(3)

CWP No.23545 of 2016 (O&M)

Kush Damani and another

... Petitioner

Versus

State of Haryana and others

... Respondents

Decided on :23.11.2016

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

Present : Mr. A.K. Jain, Advocate for the petitioners
in CWP No.19974 of 2016.

Mr. S.S. Nara, Advocate for the petitioner
in CWP No.20089 of 2016.

Mr. Krishan Singh, Advocate for the petitioner
in CWP No.23545 of 2016.

Mr. Indresh Goel, Addl. AG, Haryana.

Mr. D.S. Chadha, Advocate for respondents No.2 to 4
in CWP No.19974 of 2016 and
for respondent No.9 in CWP No.20089 of 2016.

Mr. H.L. Tikku, Senior Advocate with
Ms. Yashmeet, Advocate and
Mr. Manav Bajaj, Advocate for respondents No.10 & 12
in CWP No.20089 of 2016.

Mr. Vivek Sharma, Advocate for respondent No.8
in CWP No.20089 of 2016.

Mr. Nitin Kant Setia, Advocate
for respondent-CBSE.

Mr. Mohak Bhadana, Advocate for respondent No.11
in CWP No.20089 of 2016.

Mr. Alok Jain, Advocate for respondent No.8
in CWP No.23545 of 2016.

G.S. Sandhawalia, J. (Oral)

CM-14859-CWP-2016 in CWP-19974-2016

The present application has been filed under Order 6 Rule
17 for amendment of the writ petition.

In the application, it has been averred that the challenge was
to the wrong appellate order passed by the Additional Chief Secretary.
The mistake has only occurred on account of the fact that the respondents
schools are being run through different Trusts and there were separate
appeals filed.

Notice in the application.

Mr. D.S. Chadha, Advocate accepts notice.

In view of the averments made and in view of the fact that
the case is at the initial stage and it is not disputed that the respondents

CWP Nos.19974, 20089 and 23545 of 2016 (O&M

have got interim orders from the appellate authority which are now subject matter of challenge, this Court is of the opinion that the amendment is liable to be allowed.

Accordingly, the application is allowed.

CM-14911-CWP-2016 in CWP-20089-2016

Application for placing on record written statement on behalf of respondent No.10. The same is taken on record. Office to tag the same at the appropriate place in the file.

CM stands disposed of.

Main cases

The present order shall dispose of three writ petitions i.e. ***CWP Nos.19974, 20089 and 23545 of 2016***, as common questions of law and fact are involved.

The common grouse in all the petitions is that on account of pendency of the appeal and the stay granted by respondent No.1, they are aggrieved since the respondent-schools taking advantage of the order, have started issuing notices for claiming enhanced fee and striking of the names of the students from the rolls of the schools.

It is the case of the petitioners that in compliance to the orders passed by this Court in CWP No.20545 of 2009 on 09.04.2013, a Fee & Fund Regulatory Committee had been set up to conduct inquiry and audit headed by the Divisional Commissioner. The Commissioner vide order dated 10.05.2016 (Annexure P-8) had protected the students from being expelled from withdrawal of any facility, on account of failure to deposit the hiked fee, which was the subject matter of audit.

On account of the said orders being challenged in appeal by the schools and in view of the stay issued on different dates 02.06.2016, 06.06.2016, 15.06.2016 and 09.08.2016, the petitioners had been aggrieved and approached this Court. This Court had protected the petitioners to the same extent, which direction had been issued by the Divisional Commissioner.

One of the prayer made was that the appeal pending before respondent No.1 be decided in a time-bound manner. It is not disputed that keeping in view interim orders, the Divisional Commissioner on 06.07.2016 had also stayed proceedings in other cases also. In one of the cases the school management, namely, Modern Vidya Niketan School, Aravali Hills, Sector 43, Faridabad, had approached respondent No.1, who had clarified that the stay in one such case, would not be stay in other cases also and the matter was sent back to the Commissioner for a fresh decision. The relevant part of the order reads as under:-

“I have gone through the letter/order dated July 6, 2016 passed by the respondent. The ground taken in the order of the Fees and Funds Regulatory Committee for suspending the proceeding is not tenable as the appeal pending in other cases cannot be taken to be a ground to stop the present proceeding before it. Accordingly, the order dated July 6, 2016 of the respondent is set aside qua the present appellant. The respondent shall resume the proceeding under Section 158-A. The appellant is advised to appear before the Fee and under Section 158-A. The appellant is advised to appear before the Fee and Fund Regulatory Committee and participate in the proceedings under Section 158-A. This will be without prejudice to the rights of the appellant to file an appeal under Section 158-B against the final order of the Fee and Fund Regulatory Committee – Respondent.”

In such circumstances, CWP No.17038 of 2016, filed by the MNV School Parents Association was disposed of today, since the matter has been remanded to the Commissioner.

In such circumstances, this Court is of the opinion that the respondent No.1 should take a decision on the appeals at the earliest, since that is the primary issue before this Court also by the petitioners.

Accordingly, the present writ petitions are disposed of with a direction to the respondent No.1 to decide all the connected set of appeals which have been filed against the orders of the Divisional Commissioner, Faridabad. The same be done within a period of two months from the receipt of the certified copy of this Court. It is, however, made clear that the interim protection granted shall, however, remain to be in force till the pendency of the appeals.

In CWP No.23545 of 2016, it is further clarified that the petitioners admittedly have been expelled from the school on account of non-payment on 03.11.2016. Accordingly, it is open to them to deposit the fee, subject to the final adjudication by the competent authority. On the deposit of the fee, the respondent-school shall re-admit them, subject to the final decision. The school, however, shall not charge any penalty or additional fee for re-admission.

With the abovesaid observations, the present writ petitions are disposed of.

NOVEMBER 23, 2016
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No