

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

CWP-7171-2015 (O&M)

Date of decision:- 04.02.2016

Infant Jesus Social Welfare Society, Faridabad and others.

...Petitioners

Versus

The Administrator, Haryana Urban Development Authority,
Faridabad and others.

...Respondents

CORAM: HON'BLE MR. JUSTICE S.J. VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Ajaivir Singh, Advocate,
for the petitioners.

Mr. R.S. Longia, Advocate,
for respondents No. 1 and 2 – HUDA.

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S.J. VAZIFDAR, A.C.J. (ORAL)

The petitioners seek a writ of mandamus directing respondents No. 1 and 2 i.e. the Administrator, Haryana Urban Development Authority and the Estate Officer of HUDA, Faridabad to take action in accordance with law for closure of nursery schools run by the private respondents in shops and houses in the residential areas in violation of law and without allotment of site for such purpose in their favour.

The petitioners have also sought an order directing respondents No. 1 and 2 to close such schools and to shift the students to schools that are run in accordance with law.

2. The petitioners' grievance is that they run schools entirely in accordance with law from premises constructed upon plots earmarked for running primary nursery schools, whereas the private respondents i.e. respondents No. 3 to 42 as well as eleven other schools mentioned in the rejoinder filed today in Court run schools from premises wherein a school is not entitled to be run.

3. Respondents No. 1 and 2 rightly agree that any school being run from premises without the necessary permission and contrary to the terms of

allotment must be shut down and that action ought to be taken against the owner(s) of the premises including for resumption and possession.

4. The difficulty, however, according to the petitioners is that the respondents have merely issued notices and have not taken any effective follow up action. In some cases, notices have not even been issued. There are some notices which were issued in the year 2009 which have not been taken to the logical conclusion. The respondents No. 1 and 2 are bound in law to take action against such schools which are being run contrary to law.

5. Notice has not been issued to the private respondents. However, considering the nature of the order we intend passing, it is not necessary to do so as the effect of the order we intend passing is only to ensure that respondents No. 1 and 2 comply with their statutory obligations in accordance with law.

6. The writ petition is, therefore, disposed of by the following order:-

(i) The respondents No. 1 and 2 shall follow up the notices already issued forthwith by taking the decision upon them in accordance with law. They are at liberty to issue fresh notices to the parties concerned before passing a final order. Where notices have already been issued, they shall conclude the hearing by 30.06.2016. In the event of the resumption orders being passed and subject to any orders to the contrary and the challenge thereto, they shall adopt appropriate proceedings to stop the illegal user and/or take steps for obtaining possession of such premises in accordance with law including under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971.

(ii) Where notices have not been issued, respondents No. 1 and 2 shall take a decision whether or not to issue notices under the Haryana Urban Development Authority Act, 1977. In the event of their deciding to issue notices, they shall do so on or before 15.03.2017. They shall thereafter follow the time schedule in respect of such notices and possession as stipulated above proportionately.

(iii) In the event of their deciding not to issue notices, they shall inform the petitioners' advocate(s) of the reasons for the same in writing. Liberty to the petitioners to adopt appropriate proceedings in that event.

(iv) The petitioners shall be at liberty to inform respondents No. 1 and 2 of any violations. The respondents No. 1 and 2 shall deal with such complaints in accordance with law without wasting time.

(v) In respect of the violations alleged in this writ petition including in the rejoinder filed in Court today, respondents No. 1 and 2 shall keep the petitioners informed of the same and associate the petitioners with the hearing of the proceedings. The same shall also be done in respect of any further complaints that respondents No. 1 and 2 may receive from the petitioners.

(vi) In the event of the respondents failing to comply with the order, the petitioners shall be entitled to take such steps as may be necessary in accordance with law for the enforcement of this order including by filing contempt petitions in this writ petition.

(vii) Liberty as aforesaid.

7. Needless to clarify that this order ought not to be construed as the Court having set out the nature of the order i.e. the orders to be passed even in the event of respondents No. 1 and 2 coming to the conclusion that there have been any violations. For instance, it is possible that respondents No. 1 and 2 may permit the violations to be compounded on such terms and conditions as may be permissible in law without resuming the properties.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

(ARUN PALLI)
JUDGE

04.02.2016

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