

In the High Court of Punjab and Haryana at Chandigarh.

**CWP No. 8990 of 2016
Decided on 01.6.2016**

Nav Jyoti Senior Secondary School, Birohar, District Jhajjar,
(Haryana)

--Petitioner

Vs.

State of Haryana and others

--Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.Girish Agnihotri Sr. Advocate, with
Mr.Arvind Seth, Advocate, for the petitioner

Mr.P.P.Chahar, DAG, Haryana

Rakesh Kumar Jain,J: (Oral)

This petition is filed against the order dated 01.4.2016 passed by the Director by which recognition granted to the petitioner's school in 2008 has been withdrawn on account of violation of Rule 43 of the Haryana School Education, Rules,2003 (in short, 'the Rules') amended from time to time.

After notice, learned counsel for the respondents has contended that the petitioner has an efficacious remedy of appeal under Rule 43 (4) of the Rules.

On the other hand, learned counsel for the petitioner has submitted that in view of Rule 44 of the Rules, the petitioner would be in

a difficulty to get its recognition restored because in Rule 44, it is provided that recognition/ NOC shall be restored if the Appellate Authority is satisfied that the deficiencies have been removed by the school. The objection raised by the respondents that location of the school is at more than two places is factually incorrect.

I have heard learned counsel for the parties and examined the available record with their assistance.

It is now well settled that remedy of a writ under Article 226 of the Constitution of India, is a discretionary and extra ordinary remedy, exercised when there is no remedy provided under the ordinary law. Rule 43 (4) of the Rules reads as under:-

“(4) Any managing committee aggrieved by the withdrawal of recognition of the school managed by it may, within 30 days from the date of communication to it of the withdrawal of recognition, prefer an appeal against such withdrawal to the appellate authority”

In this case, the appeal would lie to the Secretary, Education, Haryana as the order has been passed by the Director. The petitioner may, if so advised, file an appeal to the Secretary Education against the impugned order. Insofar as the prayer of the petitioner that Rule 44 would be an obstacle in granting recognition to the petitioner is concerned, it is not true because it is provided in that rule that if the appellate authority is satisfied that the deficiencies or lapses on the part of the petitioner have been removed, it can restore the recognition/ NOC once withdrawn. The case of the petitioner is that it is not running the school at more than two places, rather the school is at the same place and it is not being run in the residential area, can easily be ascertained by the appellate authority by applying its own

mechanism, but insofar as the present petition is concerned, the remedy of writ cannot be availed by the petitioner in the presence of an alternate efficacious remedy under the rules.

In case, the petitioner files an application within a week, the respondents shall not raise any objection in regard to limitation and in case application for stay is filed, that shall also be decided by the appellate authority within seven days after hearing both the learned counsel for the parties by passing a speaking order.

With the aforesaid observations, this petition is disposed of.

01.6.2016
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(Rakesh Kumar Jain)
Judge