

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

CWP No. 15284 of 2017 (O&M)
Date of decision : September 25, 2017

Hasan Mohd

..... Petitioner

v.

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Ashok Kaushik, Advocate
for the petitioner.

Dr. Sushil Gautam, DAG Haryana

Mr. Tanmay Gupta, Advocate
for respondent No.5.

Ajay Tewari, J (Oral)

By this writ petition, the petitioner had challenged the letter (Annexure P-3) by which respondent No.5 had directed him to remove his children from the school.

Brief facts are that the petitioner was sentenced to jail. At that time, he moved an application (Annexure P-1) stating that he had four children and because of his imprisonment, the economic condition of his family had become very precarious and prayed that his children be got admitted in a private school under Rule 134-A of the Haryana School Education Rules, 2007 (for short “the Rules”). Rule 134-A of the Rules is

as follows :-

“134-A. The recognized private schools shall reserve ten percent seats for meritorious students belonging to Economically Weaker Section (EWS) and Below Poverty Line (BPL) categories. The school shall charge fee from these students at the same rates as charged in Government Schools.”

Thereafter, the word 'meritorious' was also defined in the following terms :-

“ Meritorious student means a student who has secured 60% or more marks in the preceding exams of Board or Institution itself. If the requisite quota of 25% is not fulfilled, the head of the institution can relax the same upto 50% or more, so as to enable him to complete the quota in right earnest. If there is no exam either at the level of the Board or school, in that eventuality, the grade obtained in CCE (Continuous Comprehensive Evaluation) or otherwise will be decided factor at the level of the head of institution so as to ensure fulfilling the required quota completely.”

Subsequently, this Court clarified the concept of the term 'weaker sections' as under :-

“ Accordingly, we direct that the children of all the parents who have income of ₹ 2,00,000/- or less than 2,00,000/- per annum may be regarded as economically weaker section of the society (EWS) under Rule 134-A of the Rules and the admission in the current session shall be made on that basis. The respondent-State shall notify this order to all the schools where the admissions are still awaiting finalization to the extent of 25% quota under the EWS category. The order may also be given wide publicity so as to reach to those who need such concession.”

It is the case of the petitioner that two of his children were given admission in some other school while two were given admission in respondent No.5 school and by the impugned letter, he was directed to pay the regular fee or else withdraw the children. However, the stand of the respondents is that whatever admission was obtained by the children of the petitioner was not under the provisions of Rule 134-A of the Rules. The

specific stand of respondent No.5 is that when the petitioner was imprisoned and his wife approached the school, it was only the independent act of charity (without reference to Rule 134-A of the Rules) that admission was granted to the children of the petitioner since he was in jail and when respondent No.5 came to know that the petitioner had been released from jail, there was nothing illegal in demanding full fee from him. Moreover, as per respondent No.5, it already charged 10% of the students on its roll who have been nominated under Rule 134-A of the Rules.

Counsel for respondent No.5 has fairly stated that keeping in view the position of the academic year, children of the petitioner who are studying in respondent No.5 school will be allowed to continue till the end of this academic session and thereafter if they are allocated to respondent No.5-school under Rule 134-A of the Rules, it would have no objection in continuing their education in that school but the petitioner cannot force it to indefinitely continue the independent charity which had been practised by respondent No.5. Counsel for the petitioner is also satisfied with this assurance and states that if the children of the petitioner are allowed to continue in respondent No.5-school during this academic session, he would apply under Rule 134-A in due time for the next academic session. Learned DAG Haryana has also assured the Court that in case the petitioner applies to the competent authority in good time for assistance under Rule 134-A of the Rules for the next academic session, his case would be considered and decided within the time so that admission can be granted without delay.

This writ petition is disposed of in the above terms.

Since the main case has been decided, the pending C.Ms, if

any, also stand disposed of.

September 25, 2017
'kk'

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No