

Sr. No.209

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

**CWP No. 5606 of 2016
Date of decision:19.01.2017**

**Arya Senior Secondary School, Nissing Distt. Karnal
.....Petitioner**

versus

**State of Haryana and others
.....Respondents**

Coram: Hon'ble Mr.Justice Rakesh Kumar Jain

Present: Mr. Jasbir Mor, Advocate
for the petitioner.

Mr. Sidharth Sanwaria, DAG, Haryana.

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

Rakesh Kumar Jain, J.(Oral)

This petition is directed against the order dated 11.09.2015 (Annexure P-20) which has been passed in appeal filed by the petitioner on the ground that the principal of the school did not appear before the Board but despite that the Board had considered the decision of the Chairman, show cause notice, reply and other documents before rejecting the same.

Counsel for the petitioner has submitted that in the absence of personal hearing, consideration of the documents will not satisfy the provision of the Principles of Natural Justice and the petitioner could not appear on the date fixed because he had suffered an accident in which he got his left hand fractured and immediately informed the Board through FAX message which was received in the office of the Board at 11:57 am but by that time, the Board took the decision rejecting the appeal of the

petitioner.

Counsel for the Board has submitted that the petitioner was himself not serious in pursuing the appeal as he did not appear for personal hearing despite the order passed by this Court and opportunity given by the Board and therefore, the Board had to take into consideration the documents already available with them while considering his appeal.

I have heard learned counsel for the parties and after examining the record, am of the considered opinion that the impugned order dated 11.09.2015(Annexure P-20) deserves to be set aside and the petitioner deserves another opportunity to pursue his appeal before the Board as the petitioner was unable to argue his appeal before the Board. Petitioner has also appended a letter dated 21.08.2015 in which he had mentioned about his accident and the fracture of his left hand. It is also mentioned therein that because of the advise of the doctor to take rest he was not in a position to appear before the Board on 21.08.2015 and made a request for an adjournment which was not granted. Moreover, it is also the case of the petitioner that the Board has also not passed any speaking order except for rejecting the appeal by observing that the documents have been considered and appeal has been rejected. Hence, the present petition is hereby allowed. Order dated 11.09.2015, rejecting the appeal of the petitioner is set aside and the case is remanded back to the Board to decide the appeal afresh after hearing the petitioner and taking into consideration the documents available with the Board or to be produced by the petitioner during the course of hearing.

The petitioner is directed to appear before the Board on

13.02.2017 at 11:00 am. It is needless to mention that the Board shall pass a speaking order by giving reasons.

19th January, 2017

Shivani Kaushik

[Rakesh Kumar Jain]
Judge

Whether Speaking/reasoned

Yes/No

Whether Reportable

Yes/No