

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 824 of 2018**

Ranjeet Public School, Through its President : Narendra Singh, S/o Shri Govind Singh, aged about 62 years, Amli Bhauna, Mitthu Muda, Raigarh, District- Raigarh (C.G.)

---- **Petitioner**

Versus

1. State of Chhattisgarh, through Secretary, School Education Department, Mahanadi Bhawan, New Mantralaya, District- Raipur (C.G.)
2. The Director, Public Instructions, Indrawati Bhawan, New Mantralaya, District – Raipur (C.G.)
3. The Collector, Raigarh, District- Raigarh (C.G.)
4. The District Education Officer, Raigarh, District- Raigarh (C.G.)
5. Board of Secondary Education , through its Secretary, Board of Secondary Education, Shankar Nagar, District Raipur (C.G.)

---- **Respondents**

For petitioner : Mr. Prakash Tiwari, Advocate.
 For Respondents No. 1 to 4 : Mr. D.R. Minj, Dy. Govt. Advocate.
 For Respondent No. 5 : Mr. Alok Bakshi, Advocate.
 Shri R.P. Aditya, District Education Officer, Raigarh is also present in person

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

24/04/2018

(1) Petitioner – Ranjeet Public School was granted recognition for the years 2017-2018 to admit the students from Class Nursery to class 8th and permission to run class 9th & 10th by order dated 21.03.2017 by competent authority but thereafter by the impugned order dated 06.03.2018, District Education Officer, Raigarh has revoked that recognition leading to filing of this writ petition.

(2) Shri Prakash Tiwari, learned counsel appearing for the petitioner would submit that the impugned order passed by the District Education Officer, Raigarh is bad and unsustainable in law as second proviso to Section 16(1)(c) of the Right of Children to Free & Compulsory Education Rules, 2010 (henceforth " Rules, 2010") has not been complied with and, therefore, the impugned order is liable to be set aside.

(3) Shri Minj, learned counsel for the State/respondents No. 1 to 4 would submit that the impugned order has been passed after obtaining the approval from the Collector and the matter has already been sent to the State Government for approval in accordance with law.

(4) Shri Bakshi, learned counsel appearing for respondent No. 5 would submit that the petitioner-School was not granted permission to run class 9th & 10th for the year 2017-2018.

(5) Rule 16 of the Rules, 2010 prescribes the procedure for withdrawal of the recognition to school, which states as under:-

"16. Withdrawal of recognition to school.-(1) Where the District Education Officer (hereinafter in this rule referred to as the said Officer) on his own motion, or on any representation received from any person, has reason to believe, to be recorded in writing, that a school recognized under Rule 15, has violated one or more of the conditions for grant of recognition or has failed to fulfil the norms and standards specified in the Schedule, the District Education Officer shall act in the following manner,-

(a) issue a notice to the school specifying the violations of the condition of grant of recognition and seek its explanation within one month;

(b) in case the explanation is not found to be satisfactory or no explanation is received within the stipulated time period, the said officer may cause an inspection of the school, to be conducted by a Committee of three to five members comprising of educationists, civil society representatives, media, and government representatives, which shall make due inquiry and submit its report, along with its recommendations for continuation of recognition or its withdrawal, to the said officer.

(c) on receipt of the report and recommendations of the Committee, the said Officer may pass order for withdrawal of recognition.

Provided that no order for withdrawal of recognition shall be passed by the said officer without giving the school adequate opportunity of being heard.

Provided further that no such order shall be passed by the said Officer without prior approval of the appropriate Government.

(2) The order of withdrawal of recognition passed by the said Officer shall be operative from the immediately succeeding academic year and shall specify the neighbourhood schools to which the children of that school shall be admitted.”

(6) The second proviso to the aforesaid Rule clearly provides that no such order shall be passed without prior approval of the State Government.

(7) Indisputably, in the instant case, order dated 6.3.2018 has been passed by the District Education Officer but prior approval of the appropriate Government /State Government has not been taken and the matter has been sent to the State Government. The word “prior approval” is of the great importance.

(8) In view of above, in absence of prior approval granted by the State Government, order impugned passed by the District Education Officer is in teeth of Second proviso to Section 16(1)(c) of the Rules, 2010 and hereby quashed. However, since the matter is pending before the State Government, the State Government shall take a decision in the matter of the petitioner-School within 10 days from today and, thereafter, District Education Officer, Raigarh, depending upon the decision taken by the State Government, will pass final order in accordance with law.

(11) Accordingly, the writ petition is allowed to the extent indicated hereinabove.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

