

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No.11791 of 2016 (O&M)

Date of Decision:11.09.2018

Apex Public School

..... Petitioner

Vs.

Central Board of secondary Education and another

..... Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: - Mr. R.K. Malik, Sr. Advocate, with
Mr.Praveen Gupta, Advocate,
for the petitioner.

RAKESH KUMAR JAIN, J.

Initially, the petition was filed to challenge the order dated 10.5.2016 by which the declaration of result of Class X and XII was withheld but thereafter an application was filed bearing CM No.17684 of 2017 under Order 6 Rule 17 for seeking permission to amend the writ petition to challenge the order dated 9.9.2017 by which affiliation granted to the petitioner has been withdrawn.

In brief, the petitioner-school is affiliated to the Central Board of Secondary Education [for short 'the CBSE'] and is being run by the Society. The affiliation of the school was extended for five years which was valid till 31.8.2015. In the past, the petitioner had filed CWP No.2129 of 2016 whereby its application for seeking *ex post facto* approval for Class X and XII was rejected. The said writ petition was disposed of by this Court on 24.2.2016 directing that the newly/directly admitted students in Class X and XII shall be allowed to appear in the exams provisionally subject to the

impugned by the petitioners, the result of the examination shall not be declared without permission of the Court. On 29.2.2016, the CBSE afforded an opportunity of hearing to the petitioner regarding the reasons for not granting approval to the new/direct admission with respect to Class X and XII. It was mentioned therein that for examining the cases of new/direct admission forwarded by the petitioner-school, an inspection committee was formed as per orders of Competent Authority of the board which visited the petitioner/school on 4.11.2015 and submitted its report. The shortcomings mentioned by the respondent in its order dated 29.2.2016 are as under: -

“1. The school was in shambles and extremely pitiable situation with a dilapidated building which had only 5 functional rooms that too partitioned by a wooden partition and two classes being held in two sides It is extremely shameful for CBSE’s repute to have affiliated such a school which was in the worst condition possible. Classes of students were being conducted below the staircase and on the outer portico with the teacher sitting on a chair while students were made to sit on the floor. There was another building/block to the school just behind this main block which was separated by a drain which was in an equally pitiable situation and had another 5 functional rooms.

2. *There was no play ground whatsoever and no facilities of any sort were available in the school.*
3. *The school has a single Science Laboratory for all subjects Physics, Chemistry and Biology. The laboratory too was in a poor state which no Material and apparatus whatsoever. The lab was also being used as a classroom for students of mixed classes, which proves that the school did not have demarcated classrooms for each class.*
4. *There is no library or no reference and fiction books for students' learning in the school.*
5. *Proper lighting in Classrooms and corridors for learners' benefit is unavailable.*
6. *No principal and Manager/Director was present in the school at the time of inspection. However, a person who proclaimed to be the mathematics teacher was present who informed the principal telephonically and the principal Mrs. Jaswant Sindhu and Manager arrived after an hour of the Inspecting team's arrival. Not more than 5 teachers in all were present in the school premises of*

both the buildings and were unwilling to talk to the inspecting committee.

7. *The teachers were untrained and unprofessional using only the traditional method of teaching as seen at the time of inspection.*
8. *No proper record keeping in the form of attendance registers or admission withdrawal registers were found by the inspection committee.*
9. *The school has not maintained its website and has not laid down information regarding infrastructure, number of students, number of teachers in the public domain, which has been asked by the board vide in circular dated 29.08.13.*
10. *The salary was not being paid through Electronic clearing service ECS.*
11. *The school did not have qualified and trained teaching staff. Besides teachers should be given pay scales along with DA and other admissible allowance at least at par with the State Govt. pay scales or 6th Pay Commission through ECS which was also not being followed by the school.*

12. *A copy of latest staff statement showing details of all the staff i.e. Name, Designation, DOB, Educational Qualification, Experience, Pay scales etc. and latest acquaintance roll showing details of salary being given to the staff, mode of payments of salary with proper deduction of EPF etc. was not made available by the school to the inspection committee.*
13. *The school has not framed in service rules for its as per Affiliation Bye-laws of CBSE with regard to appointment, probation, confirmation, termination of services, retirement working hours code of conduct leave and various other service conditions etc. & whether the school is following the same in letter and spirit including payment of salary and allowance to staff through bank or not.*
14. *The admissions taken by the school is not in accordance with the number of sections allowed by the board vide its affiliation letter.*
15. *The school did not take requisite permission from the board while increasing the number of sections in each*

class especially the board classes 9-12 which is mandatory.

In view of the above and violations of affiliation bye-laws/examination bye-laws, the admissions given by you were not considered by the board. However in of the Hon'ble Court orders you are directed to appraise your clarification supporting thereof with documentary evidences within a week's time from the receipt of this letter."

The petitioner filed the reply on 9.3.2016 in reference to letter dated 29.2.2016 but on 10.5.2016, the CBSE passed the order not to declare the result of Class X and XII of the petitioner/school on the ground that the school has failed to maintain absolute integrity and due regard and violated the provisions of affiliation and examination bye-laws of the Board and there are serious allegations made against the petitioner/school of sponsoring unauthorized examination. Thereafter, the petitioner was served with a *show case notice* dated 24.03.2017 to which reply was filed by the petitioner and ultimately, the impugned order was passed regarding withdrawal of the provisional affiliation on 09.08.2017. While giving the reference to the surprise visit/inspection dated 4.11.2015, the CBSE has observed that the petitioner has given fake data of the students. Respondent No.3 found that the school has indulged in violation of affiliation bye-laws of the Board willfully/intentionally and the aforesaid omission and commission of the school are in violation of Rule 3.3(ii)(a), Rule 8.1, Rule 8.8(iv) & (v), Rule 13.5, Rule 13.12, Rule 19.1(i) & (ii) of Affiliation Bye Laws, Rule 7.3 and

Rule 7.5 of the examination bye-laws and the circulars issued by the Board and the affiliation of the school was withdrawn.

Although, it is mentioned in the writ petition that no opportunity was given but keeping in view the fact that the *show cause notice* was given to the petitioner to which reply has also been filed, learned counsel for the petitioner has made an earnest request for re-inspection but interestingly there is no challenge to the inspection report and no *mala fide* has been alleged.

On the other hand, learned counsel for the respondents has submitted that the CBSE has introduced/adopted CCE (comprehensive and continuous evaluation) pattern of evaluation from 2010, which helps in improving student's performance by identifying his/her learning difficulties at regular time intervals right from the beginning of the academic session and employing suitable remedial measures for enhancing their learning performance. The CCE system has two types of assessments. A. Formative assessment: conducted 4 times a years, carried 40% weightage for the aggregate and comprise of the student's work at class and home, the student's performance in oral tests and quizzes and the quality of the projects or assignments submitted by the child/student. B. Summative Assessment: which is 3 hour long test, conducted twice a year (somewhat similar to old pattern of half yearly and finals). Each summative is conducted after 2 formatives and each carry a weightage of 30%. The syllabus of first summative is not repeated in second summative (Somewhat like semester pattern). CEE card is complied card meant for classes IX and X reflecting the performance and achievement of the learner in scholastic and co-scholastic areas. An additional features of CCE pattern is that in school based assessment the marking of answer sheets is done at the school

level as against assessment done by the Board before CCE pattern was adopted. It is submitted that the petitioner is indulging in malpractices with a sole object of making money by sponsoring non-attending candidates and making windfall admissions directly in Class X and XII without adhering to the examination bye-laws and affiliation bye-laws of the Board. It is further submitted that the surprise inspection was done on 4.11.2015 by the committee comprises of Shveta Arora, Assistant Secy. (Exams) and Juggal Kishore, Principal, Kendriya Vidyalaya, Sector 29, Chandigarh which had found various serious lapses in the functioning of the school and there was stark difference between the strength of students on paper and on ground. There were only 14 students enrolled and physically present in class X and 06 enrolled and physically present in class XII whereas the school has claimed for permission for 156 students for class X exam and 142 for class XII exam. The petitioner did not provide any record pertaining to direct admissions made in Class X and XII and during the entire period of inspection it was maintained by the Incharge that there were no records of these classes available. The petitioner failed to produce admission and withdrawal register, admission forms, transfer certificates and progress report of Class IX or Class XI. Thus in view thereof, relying upon the inspection record, the impugned order has been passed.

I have heard learned counsel for the parties and after perusal of the record, am of the considered opinion that there is no merit in the present petition insofar as the question of re-inspection is concerned. It is a case where the petitioner-school has been found indulging in malpractices by sponsoring unauthorized students to take examination from the school which is affiliated to the Board. There is no challenge to the inspection report at all

therefore, once the Court is satisfied that there is no error in the impugned order, there is no question of re-inspection and hence there is hardly any scope for this Court to interfere in this petition.

Dismissed.

11.09.2018

Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking /reasoned : *Yes/No*

Whether Reportable : *Yes/No*