

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

**CWP No. 23492 of 2016  
Date of Decision : 14.02.2019**

**Indu Sharma**

**...Petitioner**

**versus**

**Education Tribunal, Punjab and others**

**...Respondents**

**CORAM : HON'BLE MR. JUSTICE ARUN MONGA**

Present : Mr. H. S. Baath, Advocate,  
for the petitioner.

Mr. Abhay Pal Singh, AAG, Punjab.

Mr. Gourav Kalsi, Advocate,  
for respondents No.6 & 7.

**ARUN MONGA, J. (ORAL)**

1. The present petition has been filed for issuance of a writ in the nature of certiorari to quash the order dated 29.04.2015/12.06.2015 (Annexure P-13), whereby request of the petitioner to transfer her from one privately managed government aided school (respondent No.6) to the other privately managed government aided school (respondent No.7) was declined. She has also assailed the judgment dated 14.09.2016 (Annexure P-18) passed by respondent No.1.

2. The petitioner earlier approached the Education Tribunal, Punjab (hereinafter referred to as "the Tribunal") and

vide impugned judgment dated 14.09.2016 (Annexure P-18), the order passed by the Director, Education (Annexure P-13) was upheld. Hence, the present petition.

3. The lead argument of learned counsel for the petitioner is that the Tribunal while relying on Rule 9 of the Punjab Privately Managed Recognized School Employees (Security of Services) Rules, 1981 (hereinafter referred to as "Rule 9"), has wrongly interpreted the same while upholding the impugned order (Annexure P-13). He states that once both the managements of the schools were in mutual agreement to accept the transfer of petitioner within their schools, then the Director, Education Department (EE) was not justified in refusing the request, particularly when the District Education Officer (EE), Amritsar, vide its letter dated 17.04.2014 (Annexure P-10) had recommended the case of petitioner.

4. Per contra, learned State counsel strenuously argues that Rule 9 has been rightly interpreted by learned Tribunal. He contends that the said Rule is applicable only where two schools are being managed by the same management. In the present case, both the schools are being run by different managements and therefore, the benefit of Rule 9 cannot be granted to the petitioner. In any case, he states that the petitioner after the filing and during the pendency of writ petition joined and is already working in the school to which she was seeking transfer, as the earlier school from where she had sought transfer, was

shut down due to insufficient number of students.

5. Upon an enquiry posed by the Court, learned counsel for the petitioner informs that the petitioner is indeed working in the school where she had sought her transfer. However, learned counsel for respondent No.7 states that she is not being given the benefit of salary admissible to the teachers in the privately managed government aided schools, as per grant-in-aid scheme.

6. Be that as it may, without expressing any opinion on the merits of the rival contentions of learned counsels for the parties, it is directed that in the peculiar facts and circumstances of the case and keeping in view the statement of learned State counsel that earlier school where the petitioner was working, has been shut down, it is directed that the petitioner shall be deemed to be transferred to the school of respondent No.7 as per recommendation of District Education Officer contained in its letter dated 17.04.2014 (Annexure P-10). It is also made clear that since admittedly both the schools, at the relevant time, were government aided schools, therefore, the petitioner shall be entitled to her pay protection in accordance with law.

7. The petition stands disposed of accordingly.

**(ARUN MONGA)**  
**JUDGE**

**FEBRUARY 14, 2019**  
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| 1. | Whether speaking/reasoned : | Yes/No |
| 2. | Whether reportable :        | Yes/No |