

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

**CWP No.26027 of 2017 (O & M)
Date of Decision:6.12.2019**

NISA Education through its President ...Petitioner

Versus

The State of Haryana and others ...Respondents

CORAM: HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr.Pankaj Maini, Advocate
for the petitioner

Mr.Saurabh Mohunta, DAG Haryana

Mr.Rajesh K.Sheoran, Advocate
for respondent No.3

RAJIV NARAIN RAINA, J. (ORAL):

1. To begin with, the resolution filed by the petitioner, in support of this petition, placed at running page 119 of the paper book is defective, it contains spelling mistakes on crucial words like “the present of the NISA Sh.Kulbhushan Sharma has been authorised to take all necessary steps regarding the filing of the case.” The resolution is signed as a true copy, which means it is not a translation. This defect cannot be cured until a fresh resolution is filed in the proceedings book of the petitioner-society and its certified copy placed to support the petition.

The resolution is also defective because it does not

authorise Mr.Kulbhushan Sharma to engage counsel. It only says that he is authorised to take all steps leading to filing.

3. It does not authorise Mr.Kulbhushan Sharma to maintain the petition before this Court. Therefore, prima facie, counsel is not authorised to appear and this fact is confirmed from the vakalatnama which is signed by Kulbhushan Sharma without the authentication of seal and stamp of the society. He cannot act in his private capacity for a cause of the society he represents and espouses.

4. Photocopy of the original proceedings book was the best document which is not placed on file quite apart from the resolution. There are other noticeable defects in the petition including that the petitioner is litigating in this Court while the petitioner-Society is registered in Delhi.

5. The list printed out of Senior Secondary Schools is a blind extract without head or tail placed at Annex P3 without disclosing the source from where the list has been taken to be considered authentic document. Even if the list is taken to be true, yet it proves nothing in relation to the cause of action. Regarding Senior Secondary Schools in Haryana, merely the entries made bold falling at No.22 i.e. Angel's Senior Secondary School, Ambala City and at No.150 i.e. Aggarsen Senior Secondary School, Raipur Rani show no connection whatsoever with the petitioner. Many of the schools in the list are located in Shimla, Una and Sirmaur Districts. Many of those schools by a cursory look are located in Delhi in Rohini etc. There is no averment in the

petition nor any document in support of the bald assertion that the petitioner-NISA Education runs and controls any school in Haryana or within the territorial limits of this Court. The only contention which counsel relies on to try and promote its case are the terribly weak averments in paras No.4 and 5 of the petition, which read as follows:

“4. That the list of the member schools situated in the State of Haryana is also enclosed with this writ petition and the society is having 227 situated in the State of Haryana are its members on behalf of which the present petition is being filed. Copy of the list of the member schools are appended herewith as Annexure P3.

5. That the petitioner society is having a sphere in all the states of country and its members are not only trying to smoothen the problems of the private schools so that the management of the member schools could concentrate on the betterment of the students studying in their schools. The other objective of the petitioner society is to uplift the down trodden members of the society so that their status could be uplifted with the light of education in the society with intention to prove them as an asset for the country.”

6. Membership of schools affiliated to one regulatory education board does not prove control and supervision of all schools exclusively with the petitioner and its management. There is no averment in the body of the petition connecting the petitioner even remotely with any of the schools mentioned in Annex P3. The averment that the petitioner-Society is “having its sphere” in all states

of the country is not sufficient again to connect the petitioner with the territorial jurisdiction of this Court under Article 226 of the Constitution or to the cause of action. These averments are neither here nor there and lead to nothing conclusive on locus standi of the petitioner to move this Court. None of the schools mentioned in Annex P3 are before this Court complaining of the impugned letter dated 26.10.2017 issued by respondent No.3 directing that all private schools in Haryana which are found teaching school from the course books printed by private publishers would be imposed a fine of Rs. 1 lakh and any vagrancy will be treated as a violation of the affiliation regulations and the provisions of the Haryana School Education Rules, 2003 (for short, 'the Rules 2003').

7. As to how the Rules, 2003 apply to a school run in Delhi governed by the Delhi laws is not explained. Mere partnership of a large body of schools does not give jurisdiction to any one of them to question State action in other states.

8. Counsel argues that the matters which are required to be in the syllabi are governed by Rule 10 of Rules 2003 read with Rule 3 (2) (a) of the Haryana Education Act, 1995 empowering the Director or affiliating Board as the case may and thereby he shall while specifying the syllabi (for the primary, middle, secondary and senior secondary stages) decide about the contents to be laid down. However, recognised un-aided schools may adopt any text books based upon such contents.

To appreciate the contention I find not a single averment in the petition

stating that the petitioner is an un-aided school to earn the protection of Rule 10 of the Rules. No such averment has been pointed out by the counsel though he has taken me to various paragraphs where only generalised statements have been made regarding rules and un-aided schools.

9. If the petitioner society does not have a footprint in the Haryana in any of the schools which it owns, controls and manages then, it would have *ex facie* no *locus standi* to present this petition within the territorial jurisdiction of this Court or for this Court to entertain such bald pleas which are not supported by pleadings and documents.

10. If, as a school in Delhi, the petitioner has any grievance it can avail its remedies within that jurisdiction. But merely asserting that the petitioner is member of a host of schools scattered in different States without any authentic document to support the meaning of membership placed on the file, it will not be possible to presume such any such thing.

11. For these reasons, I find this petition to be utterly misconceived and seriously wanting on jurisdictional facts sufficient to maintain the petition in this Court for the relief prayed for, without establishing a direct connection with any Senior Secondary School in Haryana affiliated to the Board of School Education Haryana. To reach these conclusions, there is no need to go to the written statements filed by the Board and the State when the petition does not stand on its own

legs.

12. The petition stands dismissed. I refrain from imposing costs.

6.12.2019
neenu

(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable-	Yes/No