

**236 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CWP No.25127 of 2018.

Date of Decision: 23.05.2019

Kinder Clatter Play School and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present:- Mr. Abhilaksh Grover, Advocate,
for the petitioners.

Mr. Vikrant Pamboo, DAG Haryana
for respondent Nos. 1, 3 and 4.

Ms. Amrita Nagpal, Advocate for
Mr. Lokesh Sinhal, Advocate,
for respondent No.2.

Mr. Ajaivir Singh, Advocate,
for respondent No.5.

JITENDRA CHAUHAN J.

The petitioners have sought quashing of notice dated 27.06.2018 (Annexure P-7 colly) vide which legal action was proposed to be initiated against the petitioner-schools and the petitioners were directed to submit their reply within three days. The petitioners have also sought directions to respondent No.2 not to take coercive action against the petitioners, to provide a fair hearing to them and pass a well reasoned order on the representations dated 28.06.2018 and 29.06.2018 (Annexure P-8 colly).

It is contended by the learned counsel for the petitioners that respondent No.5 is running a pre-primary school and has indulged

in luxury litigation against the petitioners. CWP No. 21525 of 2017 was filed by respondent No.5 so that the operation of the pre-primary schools being run by the petitioners could be shut down as the same would benefit respondent No.5. The official respondents have completely misinterpreted the orders passed by this Court in CWP No. 21525 of 2017 wherein directions were given to the official respondents to consider the representations only. The Court had left it to the wisdom of the official respondents to determine whether any violation exists or not and subsequently the recourse that shall be taken which could also include compounding of violations. The official respondents without considering the same have straightway sent a show cause notice which was replied to by the petitioners. The respondents have now started sealing such pre-primary schools without taking into consideration the reply filed by the petitioners.

As per the affidavit dated 20.03.2019 filed by Additional Director office of Director Elementary Education Haryana, Panchkula, the concerned Management has to apply to District Authority (Nodal Officer for implementing ICDS) on prescribed Form-I for grant of recognition of play school. The Integrated Child Development Scheme (ICDS) is run by the Department of Women & Child Development, Haryana. The petitioner has started school without obtaining the necessary permission. Further, Rule 30(xxviii) of the Haryana School Education (Amendment) Rules, 2007 reads as under:-

“30(xxviii) that the school shall not be in operation

from residential buildings or building not earmarked for school in the State of Haryana”

As against this, it is contended by the learned counsel for the petitioners that the institution run by the petitioners are not schools, rather they are creches, therefore, the aforesaid provisions are not applicable on them.

It is to be noted that in the petition as well as in the replication, there is repeated reference that the petitioners are running Pre-Primary Schools. Thus, the stand taken by the petitioners is rejected.

No ground for interference is made out.

Dismissed.

It has been informed by the learned State counsel that vide order dated 29.08.2018 (Annexure R-2/3) final view in the matter has been taken by Joint Commissioner (F), Municipal Corporation, Faridabad. In view of this, the petitioners are free to lay challenge to the final order dated 29.08.2018 (Annexure R-2/3).

23.05.2019.
SN

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No