

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No.219

CWP-3673-2017 (O&M)

Date of decision : 3.3.2020

Shree Radhey Krishna Educational and Cultural Society

..... Petitioner

VERSUS

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Inderjeet Singh, Advocate, for the petitioner.

Mr. Manish Dadwal, AAG, Haryana.

Mr. K.K. Gupta, Advocate, for respondents No.2 and 3.

SUDHIR MITTAL, J. (Oral)

The petitioner-school has been burdened with a penalty of Rs.1.5 lacs for violation of Regulation 10(b) of the Board of School Education Haryana Affiliation Regulations (hereinafter referred to as 'the Regulations').

On receipt of a complaint, inspection of the petitioner was conducted on 22.1.2016 and it was found that a large number of students were absent. Thus, show cause notice dated 9.3.2016 was issued under Regulation 10(b) with the allegation that presence of less number of students in the school indicated that the petitioner was sponsoring children studying in unrecognized schools. The said show cause notice was followed by reminder dated 18.4.2016. Reply dated 28.4.2016 was submitted on behalf of the petitioner explaining the absence of the students. Some students had gone on an excursion, while others had gone to meet a fellow student who had got married. Some were absent. Photocopies of the record pertaining to admissions were submitted in the office of respondent No.2 and the

personal hearing. However, without grant of an opportunity of hearing, order dated 11.8.2016 was passed imposing a penalty of Rs.1.5 lacs. Appeal against the said order has been rejected and the rejection has been communicated through letter dated 16.2.2017. However, the order of the appellate authority has not been supplied/submitted.

Learned counsel for the petitioner submits that order dated 11.8.2016 has been passed without granting an opportunity of hearing to the petitioner. Had the petitioner been given an opportunity of hearing, it could have shown the entire record pertaining to the students of the school and the allegations made against the petitioner could have been refuted. Thus, the petitioner has been gravely prejudiced.

Learned counsel for respondents No.2 and 3 submits that vide show cause notice, opportunity was granted to the petitioner to file a reply. On receipt of reply, the same was examined and was not found to be satisfactory. Thus, impugned order was passed which is just and legal and within the jurisdiction of the respondent-Board.

From the facts of this case, it is apparent that no opportunity of hearing has been granted to the petitioner. Thus, the principle of natural justice has been violated. Any order imposing liability on a person must be passed after granting an adequate opportunity of hearing. Thus, impugned order dated 11.8.2006 is illegal.

Accordingly, writ petition is allowed and impugned order dated 11.8.2016 as well as communication dated 16.2.2017, whereby, the rejection of the appeal was communicated, are quashed. The matter is remanded to the competent authority of the respondent-Board for deciding afresh after

granting an opportunity of hearing to the petitioner. The penalty already deposited by the petitioner shall be refunded within two weeks from today.

(SUDHIR MITTAL)
JUDGE

3.3.2020
Ramandeep Singh

Whether speaking / reasoned
Whether Reportable

Yes / No
Yes/ No