

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA-585-2022 (O&M)

Date of Decision : 19.12.2022

Haryana Private School & Children Welfare Trust

..... Appellant

Versus

State of Haryana and others

..... Respondents

**CORAM : HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE VIKRAM AGGARWAL**

Present : Mr. Pankaj Maini, Advocate
for the appellant.

Mr. Deepak Bhardwaj, DAG, Haryana.

VIKRAM AGGARWAL, J

The instant Letters Patent Appeal challenges the judgment dated 04.07.2022, passed by the learned Single Bench in CWP No.10510 of 2022, titled as Haryana Private School & Children Welfare Trust versus State of Haryana and others

The facts, briefly put, are that the appellant-Trust claims to be a protector of rights of around 300 private schools across the State of Haryana. The writ petition in question was filed by the appellant-Trust on behalf of 22 such schools which were established after 30.04.2003 but prior to 01.04.2007. In the writ petition, the appellant-Trust had challenged the communication dated 24.01.2022 (Annexure P-2 with the writ petition) (reference to annexures hereinafter shall indicate reference to annexures with the writ petition) vide which various schools including the one on whose behalf the writ petition was filed, were restrained from admitting

students in the class for which they had got provisional/temporary recognition prior to 31.03.2007. The case of the appellant-Trust was that the schools in question were budget schools trying to provide affordable education to the students by charging nominal fee. These schools had been established under the provisions of Haryana Education Act, 1995 (hereinafter referred to as 'the Act') and prior to the adoption of the Haryana Education Rules, 2003 (hereinafter referred to as 'the Rules'), the respondents had granted extension of provisional recognition to all private unaided schools situated in the State of Haryana on yearly basis and on this basis, the Haryana School Education Board, Bhiwani had extended the provisional affiliation of such schools. However, vide communication dated 24.01.2022 (Annexure P-2), it was ordered that the private unaided schools would not admit students for the Session 2022-23 without obtaining permanent recognition from the concerned authorities. Reliance in the writ petition was placed upon certain interim directions passed by this Court in similar matters. Reliance was also placed on Rule 38 and Rule 194-A of the Rules as also communication dated 06.04.2007 issued by the respondents, it was averred that in view of this communication, the order dated 24.01.2022 could not have been issued. It was also averred that the schools in question were established between 2003 and 2007 and were, therefore, covered by the communication dated 06.04.2007.

Learned Single Bench, finding that the writ petition was devoid of merit, dismissed the same holding that the schools in question could not equate themselves with the schools which had been established prior to the year 2003.

Aggrieved by the said decision, the present Letters Patent

Appeal has been preferred.

We have heard learned counsel for the parties and have perused the record.

Learned counsel for the appellant has submitted that the learned Single Bench erred in dismissing the writ petition. He has taken us through the letter dated 06.04.2007 and the various provisions of the Act and the Rules and thus contended that the schools in question would be covered by this communication.

On the other hand, learned counsel representing the State of Haryana has submitted that there is no illegality in the judgment of the learned Single Bench and that the case of the appellant is devoid of merit. It has been submitted that the schools in question are not having permanent recognition and the decision dated 06.04.2007 gave relaxation for a limited period subject to completion of norms. It has also been contended that the learned Single Bench rightly held that the schools before this Court cannot equate themselves with the schools which had been established prior to the year 2003.

Having considered the arguments advanced by both sides, we are unable to agree with the learned counsel for the appellant. It is an admitted position that the Schools in-question were established after 30.04.2003 but prior to 31.03.2007. Rule 30 of the Rules deals with the recognition of schools and lays down a number of conditions/norms which are to be fulfilled by the schools seeking recognition. The conditions/norms are with regard to approval from the appropriate authority, appointment of suitably trained and qualified teachers, fair admission procedure, norms with regard to land and buildings, various safety factors to be observed in

the school buildings, arrangement of drinking water, proper sanitation, electric fittings, bar on forcible religious instructions and other checks and balances etc. Rule 38 of the Rules states that the existing recognized/deemed recognized schools running before 30.04.2003 would not have to seek fresh recognition or no objection certificate from the department but would have to submit returns regarding their land and buildings in the form as specified by the Department. Rule 38 reads as under:-

**“38. NO FRESH RECOGNITION -- Section 3 and 24 (2)
(a), (b) and (d):-**

Existing recognized/deemed recognized schools running before 30th April 2003 shall not have to seek any fresh recognition or No Objection Certificate from the department. However, they shall have to submit returns regarding their land and building in the Form as specified by the Department for record purposes within six months from the date of notification of these rules in the Official Gazette.

The decision dated 06.04.2007 which has been very heavily relied upon by the appellant and upon which the case of the appellant-petitioner infact hinges has been reproduced both in the writ petition as also in the judgment of the learned Single Bench. It talks about the amended Rules and lays down that all schools which were permanently recognized before 30.04.2003 would not have to seek any fresh recognition or 'No Objection Certificate' from the Education Department as provided under Rule 38 of the Rules. It further states that the benefit of relaxed Rules/norms for existing schools which was earlier granted for schools

before 30.04.2003 was being extended to schools existing upto 31.03.2007.

It was applied to schools which had been temporarily recognized by the Education Department or temporarily affiliated with the Board of Education, Bhiwani till 31.03.2007 as also unrecognized schools. The said decision reads as under:-

“16. Demands of private schools running in the State for further relaxation and clarification regarding amended Haryana School Education Rules, 2003.

(copy of E.D. Hr. No.8/9-2007 PS (3) dt. 06.04.07)

Kindly refer to the above mentioned subject.

I am directed to say that the Government of Haryana has decided to grant relaxation in various norms prescribed for private schools under the amended Haryana School Education Rules, 2003 keeping in view the interests and needs of private schools. It has been decided as follows:

1. Permanently Recognized Schools:

All those schools that were permanently recognized before 30th April 2003 will not have to seek any fresh recognition or NOC from the Education Department as provided under rule 38. They will, however, have to submit returns regarding their land and building in an amended form II for record purposes.

2. Definition of Existing Schools:

The benefit of relaxed rules/norms for existing schools, which was earlier granted for existing schools before 30th April, 2003 is now extended to schools existing upto 31.03.2007. The categories of such schools are given below:

- i. The schools temporarily recognized by Education Department or temporarily affiliated with Haryana Board of School Education, Bhiwani till 31st March, 2007.*
- ii. Un-recognized schools who provide proof of their being in operation for a period of last four years (upto 31.03.2007) by documents such as Electricity Bills,*

Water Bills, Telephone Bills, records of establishment of school, as private candidates in public examination, admission forms and withdrawal register, enrollment forms, ownership or lease records of school land, proof of internal examination, income tax documents and registration deed of societies under the Societies Registration Act. The category of un-recognized schools would be given relaxation only upto class 8th. These documents should pertain to the last 4 years. They should prove to the District Education Officer that the concerned unrecognized school was in existence and doing academic work since the last 4 years.”

In our considered opinion, this decision would not be applicable to the schools in question as it only granted relaxation in norms to schools which were existing upto 31.03.2007 and it nowhere states that such schools, whether they had the necessary recognition or not could continue forever. The distinction between the schools established prior to 30.04.2003 and those established after that but prior to 31.03.2007 is that the schools established before 30.04.2003 had been recognized and thereafter the Rules came into force laying down various norms under Rule 30 of the Rules. The relaxation was given to the schools established after 30.04.2003 but in existence before 31.03.2007, only to fulfill these norms. The schools established after 31.03.2007 would not have this relaxation also. It is quite intriguing as to why after 2007, such schools were permitted to run till now without their having fulfilled the norms. We are not inclined to venture into this area as the same is not an issue before us. However, Annexure P-2 which has been challenged by the appellant clearly states that the temporary recognition which was being given year after year had been extended for one academic session i.e. 2021-2022 by the State on the

condition that the authorities would not permit the private schools not having permanent recognition to admit the students in the year 2022-23. There is absolutely no illegality in the said communication warranting any interference, whatsoever, by this Court. It is time that norms and rules laid down by the Government are complied with in letter and spirit. Anyone who does not comply with the same, has no right to function.

There is another aspect of the matter. The appellant has not placed on record either before the learned Single Bench or before this Court any document with regard to any of the schools showing the recognition etc. granted to it or the norms etc. being fulfilled by the schools. The writ petition does give about a paragraph each about each school but the averments are vague and do not disclose the essential particulars. When the learned Single Bench was hearing the writ petition, it passed the following order on 19.05.2022:-

“The petitioner is allegedly an organization established for the benefit of private schools in the State of Haryana. The present writ petition has been filed on behalf of its members-schools who were established after 2003 and upto 31.03.2007. The grievance is against orders dated 24.01.2022 and 13.04.2022, whereby, temporarily recognized private schools like the members of the petitioner have been restrained from admitting students in the academic session 2022-23. According to the petitioner, its members are identically situated as schools established prior to 2003 in respect of temporary recognition and thus, it is entitled to benefit of order dated 31.03.2022 passed by this Court in CWP-4524-2022 which has been filed by temporarily recognized private schools established before 2003. This submission had been made on the basis of Notification dated 06.04.2007, whereby, private schools established after 2003 were granted relaxations as granted to

schools established prior to 2003.

The argument cannot be appreciated because the nature of the relaxations relied upon is not forthcoming. The conditions of grant of temporary recognition are also not on record.

Learned counsel for the petitioner, thus, prays for time to place on record the necessary documents.

Adjourned sine die.

To be listed as and when an appropriate application is filed in this regard.”

The order shows that the learned Single Bench was also of the view that the nature of relaxations granted to the schools and the conditions of grant of temporary recognition were not on record. Learned counsel for the petitioner sought time to place on record such documents. However, instead of filing these documents, only Annexures P-6 to P-10 were placed on record which were again general communications issued by the respondents and not documents pertaining to the schools. Under the circumstances, the learned Single Bench rightly dismissed the writ petition.

In view of the aforementioned facts and circumstances, we do not find any merit in the present appeal and the same is hereby dismissed.

(AUGUSTINE GEORGE MASIH)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

19.12.2022
mamta

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No