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

CWP-28760-2023

Date of decision: 20.12.2023

Nipun and others

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Akshit Mehta, Advocate for the petitioners.

Ms. Rajni Gupta, Addl. A.G., Haryana.

VIKAS BAHL, J. (ORAL)

1. This is a Civil Writ Petition filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing the respondents to re-admit the petitioners in respondent No.5 school.

2. Learned counsel for the petitioners has submitted that primary prayer of the petitioners is for setting aside the expulsion of the petitioners from respondent No.5-School and has further submitted that in the alternative, the prayer of the petitioners is that they should be refunded the fees paid by them from April 2023 to October 2023 and also that they should be issued School Leaving Certificates. It is also submitted that although, the petitioners have already given several representations to the District Education

Officer/Elementary Education Officer but the petitioners be permitted to give a fresh representation with the abovesaid two prayers to the District Education Officer/Elementary Education Officer, Palwal, District Palwal, Haryana and they would be satisfied at this stage in case, the said authority is directed to consider the said representation in a time bound manner and in case, the pleas raised by the petitioners are found to be meritorious then grant necessary relief in accordance with law.

3. Learned counsel for the petitioners has also submitted that as per Section 32 of The Right Of Children To Free And Compulsory Education Act, 2009 (hereinafter to be referred as “the Act of 2009”), any person who is aggrieved of the grievance relating to rights of the child under the Act of 2009, has a right to file a written complaint to the Local Authority having jurisdiction. Further reference has been made to Section 38 of the Act of 2009 where powers have been given to the appropriate Government to make rules. It is further submitted that in pursuance of powers under Section 38 of the Act of 2009, the Haryana Government has made The Right Of Children To Free And Compulsory Education Rules, 2011 and as per Rule 2(k) of the said Rules, the Local Authority has been stated to include the District Elementary Education Officer and thus, the petitioners have a right to raise grievance before the said authority.

4. Learned State Counsel has submitted that in case any such representation is filed, the District Elementary Education Officer, Palwal, Haryana, would consider the same within a period of three weeks from the date of receipt of the said representation and the same would be done after providing opportunity of hearing to all the parties concerned including

respondent No.5-School.

5. Keeping in view the abovesaid facts and circumstances, the present Civil Writ Petition is disposed of with direction to the District Elementary Education Officer, Palwal, Haryana, to consider the representation as and when filed by the petitioners on the two aspects which have been highlighted before this Court, within a period of three weeks from the date of receipt of said representation and the same be done after hearing all the parties concerned including respondent No.5-School and in case, the pleas raised by the petitioners are found to be meritorious then necessary relief be granted to them, in accordance with law and in case, the District Elementary Education Officer is of the opinion that the pleas raised by the petitioners are not meritorious then a speaking order rejecting the same be passed within a period of three weeks from the date of receipt of the said representation.

6. This Court has not opined on the merits of the case and the District Elementary Education Officer would consider the case of the petitioners independently, in accordance with law.

20.12.2023

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No