



CWP-9620-2024

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

**CWP-9620-2024
Date of Decision: 23.07.2024**

Ameliorating India and others

..... Petitioners

Versus

Punjab School Education Board and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Naresh Ghai, Advocate,
for the petitioners.

Mr. R.S. Kalra, Advocate,
for respondent No.1.

Mr. A.S. Pannu, AAG, Punjab,
for respondent No.2.

Mr. Himanshu Malik, Advocate,
for respondent No.3-UOI.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present writ petition has been filed under Article 226 of the Constitution of India for issuance of a writ in the nature of *mandamus* directing the respondent No.1-PSEB not to compel the petitioner-School to seek affiliation for the year 2024-25 (by applying before 31.08.2024 when students are still in 9th class) for presenting its pupil for Matric/10th Class examination to be held by the PSEB in March 2026, besides it being violative of Article 230-231 of the Punjab Education Code, 1990 vide which affiliation is required for 12th (10+2) class i.e. not for 10th class as the 10th class students are allowed to appear in open Matric Examination also and to



quash PSEB letter dated 25.08.2023 (Annexure P-4) enhancing fee/time and also to quash the Punjab Government speaking order dated 06.02.2024 (Annexure P-9) and PSEB's instructions calling upon the schools to present its pupil for their 5th & 8th class exam on deposit of fee @ Rs.850 & 1200 per student respectively besides the provisional school affiliation fee of Rs.8000, being arbitrary & violative of Article 13(2), 14, 21-A, 39(f), 51 of Constitution of India, Section 3-16, 30 of Right of Children to Free & Compulsory Education Act, 2009 (RTE), Pb RTE Rules 11(4) Form-II Para 7(b)(d) and Article 207 & 208 of Punjab Education Code, 1990 and if the PSEB is found entitled to hold exam for Class 5th/8th then not to charge exam fee from the students studying in this NGO school.

2. Present matter was also taken up in the morning session and Mr. Himanshu Malik, Advocate, appeared and stated that respondent No.3-UII does not want to file reply. Reply on behalf of respondent No.2 is already on record.

3. Learned counsel for the petitioners submitted that the petitioners are running the School as an NGO and wants affiliation from the Punjab School Education Board for Classes 9th and 10th. He further submitted that so far as the first prayer is concerned as so stated in the prayer clause that a direction is sought not to compel the petitioner to seek affiliation for the year 2024-25 by applying before 31.08.2024 because as of now the students are in 9th class and affiliation is sought for the next year and therefore, there is no need to start the aforesaid process one year in advance. He also submitted that the second prayer is that for the students of Classes 5th and 8th the respondents should not be permitted to charge the



examination fee @ Rs.850/- and Rs.1200/- because it is prohibited under the provisions of Right of Children to Free & Compulsory Education Act, 2009 (RTE).

4. On the other hand, Mr. R.S. Kalra, learned counsel appearing on behalf of respondent No.1-PSEB has filed reply in Court today, which is taken on record and submitted that the present petition deserves to be dismissed because of the reason that the present petition is hit by *res judicata* because earlier also the petitioner-School had filed a petition before this Court and the same was disposed of. In this regard, he referred to the prayer which the petitioner-School had made in the first writ petition, which has been reproduced in Para No.3 of the reply filed by respondent No.1 in Court today and thereafter, referred to the orders passed by a Co-ordinate Bench of this Court while disposing of the first writ petition vide Annexure P-10 on 28.09.2023. He further submitted that a Co-ordinate Bench of this Court while passing the aforesaid order was dealing with two issues. The first was with regard to charging of examination fees for 5th and 8th Classes by the respondent-Board, regarding which, a stand was taken by the Board itself that since the petitioner-School is not affiliated to the Punjab School Education Board as of yet, they will not charge any examination fee for 5th and 8th classes and therefore, the grievance of the petitioner-School was misconceived. So far as the second prayer of the petitioner-School in that writ petition is concerned, the School wishes to get affiliation for 9th and 10th classes and they wanted to apply for the affiliation. The officer of the Board has specifically stated before the Court in the aforesaid order that if the School wants affiliation for 9th and 10th Classes, then the School needs to



apply in the slot for the year 2024 i.e. from 01.04.2024 to 15.09.2024 and in case the petitioner-School applies for affiliation during the said period, then the said application would be considered in accordance with law. He further submitted that after the aforesaid petition was disposed of, the petitioner-School did not file any representation to the Board seeking affiliation. He also submitted that so far as the Policy of the Board is concerned, if any School from the State of Punjab wants to seek affiliation for Class 10th onwards, then they are required to apply for affiliation at least one year prior to that and for that time was given from 01.04.2024 to 15.09.2024, which is so reflected in the aforesaid order (Annexure P-10) and the rationale of same is that the entire process has to be completed within time and it is not possible to get affiliation for Class 10th and onwards, the School should apply for affiliation only when the students are admitted in Class 10th because the process has to be started at least some time before that which is the reason as to why the Schools are asked to apply for affiliation at least one year prior when their students are in Class 9th so that all the necessary formalities are completed within a reasonable time. He also submitted that another reason as to why one year time is required is that there are various other parameters under the law which are required to be fulfilled including fire safety, building norms etc. in this regard. He further submitted that both the prayers of the petitioner-School has already been dealt with by a Co-ordinate Bench of this Court in earlier petition and therefore, the present petition is not only misconceived but is also not maintainable.

5. I have heard the learned counsels for the parties.
6. A perusal and comparison of the prayer which was made by the



petitioner-School in the first writ petition, which has been disposed of vide Annexure P-10 and the present petition would show that the petitioner-School has actually repeated the prayer which it made in the earlier writ petition. One of the prayers in both the petitions was with regard to charging of the fee for 5th and 8th classes to which the Board has already stated in the aforesaid order vide Annexure P-10 that the Punjab School Education Board does not charge the same. So far as the second prayer which is made in the present petition to not to compel the School to apply for affiliation one year prior to Class 10th is concerned, for the same a perusal of the order (Annexure P-10) would show that a similar prayer was also dealt with by a Co-ordinate Bench of this Court. Rather the petitioner-School could have made a representation to the Punjab School Education Board with regard to the same which is so reflected in the aforesaid order and rather an express liberty was granted to the petitioner-School to seek remedy with regard to any other grievances as prayed for in accordance with law but no such representation has been filed by the petitioner-School in this regard.

7. In view of the aforesaid facts and circumstances, the present petition is not only devoid of merits but is also not maintainable and the same is hereby dismissed.

23.07.2024

Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |