

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8624 of 2025

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Ekalavya Educational Complex, Palanga, PO Suitha Via, P.S.- Punpun,
District- Patna, Bihar-804453 through its Principal Dinesh Kumar Mishra, S/o
Shri Awadh Bihari Mishra, age 54 Years, (Male), R/o 4116, near Viswakarma
Mandir, Sector 4/G P.S. Bokaro Steel City, P.O.-Sector IV, District-Bokaro,
Jharkhand-827004.

... .. Petitioner/s

Versus

1. Union of India through the Secretary, Ministry of Education, New Delhi
2. Central Board of Secondary Education, Shiksha Kendra, 2, Community
Centre, Preet Vihar, New Delhi-110092.
3. The Secretary, Central Board of Secondary Education, Preet Vihar New
Delhi.
4. The Regional Director Central Board of Secondary Education, Regional
Office Shekhpura, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Anjani Kumar, Sr. Adv. Mr. Hansraj, Adv. Mr. Amolak Singh, Adv. Mr. Apurva Kumar, Adv.
For the CBSE	:	Mr. Vinay Krishna Tripathy, Adv.
For the UoI	:	Mr. Kumar Ganesh Gunjan, Adv.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 15-09-2025

Heard Mr. Anjani Kumar, learned Senior Advocate
with Mr. Hansraj, learned Advocate for the petitioner and Mr.
Vinay Krishna Tripathy, learned Advocate for the Central Board
of Secondary Education (for short ‘the CBSE’). The Union of
India is represented through Mr. Kumar Ganesh Gunjan, learned



Advocate.

2. The school, represented through its Principal has invoked the extraordinary writ jurisdiction of this Court under Article 226 of the Constitution of India, seeking quashing of the order no.00553 dated 05.04.2025 issued under the signature of Director, (Affiliation) CBSE as also quashing of the report duly prepared upon the surprise inspection conducted on 19.12.2024, by the Inspection Team of the CBSE.

3. The Petitioner-school was duly established in early 2000, affiliated with the CBSE for Senior Secondary Level w.e.f. 01.04.2005 to 31.03.2008 and further renewed time and again and finally affiliated till 31.03.2027, had the impugned orders dated 24.02.2025 and 05.04.2025 not been passed. The school was to abide by the Affiliation Bye-Laws 2018, under which Clause-11 empowers the CBSE to conduct the inspection of the school, including surprise inspection to ascertain and ensure that schools are following the provisions of the Examination Bye-Laws, Affiliation Bye-Laws and other instructions issued by the Board from time to time. Clause 11.4 of the Affiliation Bye-Laws 2018 relates to surprise inspection of the school, provided the Board may any time get an affiliated school inspected by a Committee of one or more Members



without giving any notice to the school. Under the aegis of the above referred Bye-Laws, a surprise inspection was carried out through a two Members of the Inspection Committee in the school and the inspecting team filed its inspection report dated 19.12.2024. This led to issuance of a show-cause notice with a copy of the surprise inspection report, directing the Manager of the school to submit a reply, highlighting allegation against defects/infirmities in the school.

4. The show-cause notice was duly responded by the petitioner-school on 07.02.2025 giving point wise explanation; however, the Board did not satisfy with the explanation and came out with the order bearing no.00349 dated 24.02.2025, inflicting punishment, including the affiliation granted to the school was withdrawn with immediate effect.

5. Aggrieved with the order, afore-noted, the petitioner filed a detailed representation to reconsider the imposed punishment and further explained the entire position with a request to revoke the order dated 24.02.2025. This representation of the petitioner was further considered by the CBSE vide its order no.00553 dated 05.04.2025 and analysed the position of the school and modified the order dated 24.02.2025 to the extent that the school's affiliation is



downgraded to secondary level, besides other orders and further directed to remove deficiencies and submit compliance within three months of the date of issuance of the order.

6. Mr. Anajani Kumar, learned Senior Advocate for the petitioner contended that the punishment of disaffiliation passed under the impugned orders are miscalculated and wrongly imposed as being arbitrary and extreme consequences against the alleged misconduct. The petitioner had filed representation dated 08.03.2025 (Annexure P/8) requesting to consider the valid explanation and reasons against the alleged violations so imposed upon the petitioner-school. He further contended that the order dated 24.02.2025 is failed to reflect any conscious application of mind and the final impugned order dated 05.04.2025 is non-speaking order, only referred to the previous order and taking similar grounds mentioned therein. Referring to the impugned order dated 24.02.2025, it is submitted that the same has been issued under the signature of Director (AFFL) based upon the inspection report; however, it does not reflect that the same has got approval of any competent authority, much less by the CBSE, which is the only competent authority. Unlike the order of punishment dated 24.02.2025, subsequent order dated 05.04.2025, clearly discloses that the



order has got the approval of the competent authority of the CBSE as has been expressly mentioned at the fag end of the order. Since the very initiation of the show-cause notice or inflicting punishment was not by the competent authority, which in the case in hand, is the CBSE; hence, the entire action against the petitioner-school and the punishment impugned herein are wholly without jurisdiction.

7. Learned Senior Advocate further taking this Court through the inspection report as also the impugned order(s) has submitted that the finding of the CBSE that the school is indulged in sponsoring non-attending student is only based on assumption and presumption. The inspection report is only suggestive of the fact that except high enrollment in Class-XI and XII, all things more or less are found OK, hence, the extreme punishment of withdrawal of affiliation and subsequently its modification to downgrading the affiliation to secondary level is wholly unsustainable and not based on the admissible evidence.

8. It is further argued by the learned Senior Advocate that the principles of natural justice or *audi alteram partem* has been given a complete go by before applying such extreme penalty of withdrawal of affiliation, which at all warrants



opportunity to the petitioner to be heard, and represent and explain its position in prudence; and rather reasonable penalties available from various other penalties which can be imposed should have been resorted to. The teaching and non teaching staffs, besides all the students in the School will be seriously prejudiced in rem by the order impugned. The alleged violations of the Affiliation Bye-Laws mentioned in the show-cause notice were not so severe to warrant the extreme punishment and thus it is not proportionate and the petitioner ought to have been given time for the rectification of these defects before rushing into disaffiliation.

9. In order to bolster his submission, reliance has been placed on a decision of the High Court of Delhi at New Delhi in the case of **Mount Columbus School and Others v. Central Board of Secondary Education [2024 SCC OnLine Del 2778]** and further in the case of **Chand Ram Public School v. Union of India and Others [2024 SCC OnLine Del 3933]**.

10. Mr. Anjani Kumar, learned Senior Advocate further apprised this Court and argued that in pursuant to the impugned order(s), the respondents have transferred 200 students to nearby school and balance students to other nearby schools through letters dated 28.04.2025, which has also been



questioned by filing I.A. No.01/2025. This act of the CBSE is *ultra vires* to the provision 13.15 of the Affiliation Bye-Laws, 2018, which implies that in the event of disaffiliation or degrading of school, the students who are already studying in the school in classes IX, X, XI and XII will be allowed to appear in Board's examination in their respective batches from the same school or from school approved or declared by the CBSE.

11. On the other hand, Mr. Vinay Krishna Tripathy, learned Advocate for the Board dispelling the afore-noted submissions argued that Clause 12 of Affiliation Bye-Laws clearly lays that non-compliance of Examination and Affiliation Bye-Laws shall be considered violation and attracts action as per Chapter 12 of the same. The prescriptions under Clause 14, specifically 14.1, 14.2, 14.2.2., 14.2.4, 14.2.5 are mandatory. The Board is making regular inspections against schools making violations of conditions of affiliation and found sponsoring non-attending students; thus, no personal enmity or ill-will against the school and acting in capacity of a regulatory body for affiliation which has powers, also upheld by catena of Apex Court judgments, to impose actions/penalties for gross violations of conditions for affiliation. Taking this Court to the



impugned order(s) as also the averments made in the counter affidavit, he drew the attention of this Court towards deficiencies of the petitioner-school and the reasons, which led to passing of the impugned order(s).

12. Besides various irregularities/shortcomings, it is further submitted that the school has enrolled 401 students in Class XI and 402 for Class XII for session 2024-2025. Not even a single student was found present on the day of inspection of both the classes. Similarly, the school has enrolled 65 students in Class IX and 66 students in Class X, whereas, only 29 students in Class XI and 02 students in Class X were present on the day of inspection. Hence, the school has high absenteeism on the day of inspection. Looking into the interest of the students and taking a lenient view in the light of the submission of the school the penalty of disaffiliation was modified and the school has been downgraded from Senior Secondary Level to Secondary Level. Board has passed a very reasoned and justified order whereby the penalty of downgrading and again keeping the school up to Secondary Level is fully based upon the proportionality of penalty warranted in this case.

13. At this juncture, learned Senior Advocate for the petitioner interjected and submitted that the petitioner is facing



imminent threat of coercive steps by the CBSE, particularly blocking/blacklisting of its OASIS/HPE Portal access used for uploading the List of Candidates (LOC) for Classes X and XII for session 2025-26. It is submitted that the submission of the list of candidate is mandatory under the Board regulations and Circular dated 30.07.2025, which directs all schools to be fully prepared with student details. Non-submission leads to serious prejudice to students. If portal access is denied, hundreds of students in Classes X & XII would be barred from appearing in Board's Examination, causing irreparable harm to their academic careers. In light of the Circular dated 30.07.2025 and commencement of LOC process, urgent interim intervention by this Court is indispensable to protect student rights. He further contended that the impugned order(s) does not expressly debar the petitioner from uploading the list of candidates. Any attempt to block portal access would be without authority of law. Balance of convenience lies in favor of the petitioner and its students, as allowing LOC submission causes no prejudice to the CBSE, while denial causes irretrievable harm.

14. To answer the issue of principles of natural justice, Mr. Tripathy further argued that the petitioner-school was granted opportunity of 30 days limit with the show cause notice



along with complete inspection report. The school was further extended liberty to make representation and there had been a detailed consideration of the explanation offered by the petitioner in the impugned order(s); thus the principles of natural justice was duly followed.

15. After having heard the learned Advocate for the respective parties and on perusal of the materials available on record as also the Examination and Affiliation Bye-Laws, the issue required adjudication from this Court, in the considered view, is as to: (i) whether the order of disaffiliation and further modified punishment of downgrading are without jurisdiction and wrongly imposed as also miscalculated due to them being extreme and arbitrary consequences to the alleged violations/defects; (ii) whether the impugned order is in violation of the principles of natural justice suffers from non-application of mind and passed without assigning any opportunity of *audi alteram partem*.

16. Before proceeding further, this Court is conscious of the settled proposition which has been propounded through various decisions that the Court should not interfere with the administrator's decision unless it was illogical or suffers from procedural impropriety or was shocking to the conscience of the



Court or in effect it was in defiance of logic or moral standards. The Court, as ruled, would not go into the correctness of the choice made by the administrator open to him and the Court should not substitute its decision to that of the administrator. The scope of judicial review is limited to the deficiency in decision-making process and not the decision. In a normal course, if the punishment imposed is shockingly disproportionate, it would be appropriate to direct the Authority or the Appellate Authority to reconsider the penalty imposed. To put it differently unless the punishment imposed by the Authority shocks the conscience of the Court/Tribunal, there is no scope of interference. **[vide Chairman and Managing Director, United Commercial Bank and Others v. P.C. Kakkar [(2003) 4 SCC 364].**

17. There is no dispute with regard to the power vested in the Board to impose penalties mentioned in Chapter-12 of Affiliation Bye-Laws 2018 mentioned in Clause-12.1.1 to 12.1.10, on any school in the eventualities as mentioned in clause 12.2 of Chapter-12. Clause 14.1 clearly stipulates that every school is bound to follow the Affiliation Bye Laws of the Board *mutatis mutandis*. The schools affiliated with the CBSE are required to maintain high academic standards for imparting



education and overall development of the students enrolled there and adhere to the Affiliation and Examination Bye-Laws of the Board for their functioning.

18. Chapter-11 of the Affiliation Bye-Laws 2018 talks about the inspection of the schools for affiliation and periodic inspection for extension of affiliation. Clause-11.4 of the Bye-Laws clearly says that; the Board may any time get an affiliated school inspected by a committee of one or more members without giving any notice to the school. It is imperative that inspection report will be considered by the Board for appropriate action under Clause-11.6. The Board has been defined under Clause-1.3.5; “Board” means the Central Board of Secondary Examination.

19. Under Chapter-14, the Affiliation Bye-Laws 2018 provides general rules, which are required to be mandatorily followed. In the light of the power prescribed under the Affiliation Bye-Laws 2018, inspection was carried by a Committee of consisting two Members, who submitted its report with the final remarks as follows:-

Final Remarks:	1. Except high enrollment in Class XI & XII. all things more or less are found OK . 2. Admission form of class XI & XII were not produced by the school authority at the time of inspection. 3. They may be instructed to prepare proper
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	service records of the school staff. 4. More relevant books to be purchased for school library. 5. School may be advised to run Bal Vatika I, II & III Classes separately and to promote activity-based teaching. 6. Extra efforts should be taken to increase enrollment in lower classes especially in pre-schooling. 7. Appointment of Special Educator. Counsellor, ECCE Diploma holder and trained & experienced teacher is required. 8. There is a big school campus and surrounding are neat & clean covered with greeneries. 9. More improvement in labs and library is required for its reinovation. 10. Computer lab should also be equipped with latest technology to make it a smart lab. 11. Washroom & drinking water facilities are available as per norms.
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20. Based upon the inspection report, the petitioner was served with a show-cause notice disclosing point-wise violations/defects, directing him to file reply explaining as to why penalties as envisaged in clause 12.1 and 12.2 of the Affiliation Bye-Laws 2018 cannot be imposed. Clause 12.1 empowers the Board in a case in which school is found violating the provisions of Affiliation or Examination Bye-Laws to impose anyone of the ten penalties, which follow thereafter in Clauses 12.1.1 to 12.1.10, of which withdrawal of Affiliation is extreme and envisaged in Clause 12.1.9.

21. Suffice it to observe that where an authority,



competent to impose punishment is provided discretion, under the applicable statute to impose anyone of the various punishment which vary in degree, the order imposing punishment has necessarily to indicate the reason and justification for choosing that particular punishment for imposition, especially where the punishment being imposed is the most severe or akin thereto.

22. It has imperatively observed in the case of **Mount Columbus School & Ors.** (supra), where the High Court of Delhi referring to the aforesaid principles has said that if clause 12.1 were to be invoked, there would have had to be conscious application of mind by the CBSE to the various punishments which could be imposed on a school, and a conscious decision, as part of a reasoned and speaking order, that the only punishment that the indiscretions of the school could visit on it was the punishment of disaffiliation and nothing lesser.

23. In absence of such conscious application of mind, either in the show-cause notice or in the impugned order(s), it makes it vulnerable to challenge.

24. The show-cause notice, *prima facie*, appears to have been issued under the signature of Deputy Secretary, AFFL; however, it does not whisper as to whether it has got



approval of the Board, which is the only competent authority. Be that as it may, the petitioner-school submitted a detailed point-wise explanation/reply to the show-cause notice dated 08.01.2025. The explanation of the petitioner was considered and the Director, AFFL came out with the impugned order dated 24.02.2025 and are found the following violations established beyond doubt:-

- “1. The school is indulged in sponsoring non attending students.
2. The school had ill equipped science Labs.
3. The school has a disproportionately high absenteeism of students in senior classes.
4. The school has manipulated its records to mislead the Board.
5. The school has committed irregularities in the maintenance of the essential records.
6. The school has severe infrastructural deficiencies.
7. The school has not maintained pupil teacher ratio and the school has shortfall of teachers.
8. The school does not have a counsellor and wellness teacher.
9. The school has compromised on the safety of the students.”

25. Giving aforesaid finding of the violations, the Director, AFFL concluded that the school is liable for the



severest of penalty as can be imposed viz. withdrawal of affiliation; hence, he ordered for immediate withdrawal of affiliation, besides other punishment.

26. This time again the order no.00349 dated 24.02.2025, inflicting severe punishment does not speak as to whether the consent of the Board has been taken or the order has got the approval of the Board, unlike the final order dated 05.04.2025, which clearly speaks that it got the approval of the competent authority of the Board. By the impugned order dated 24.02.2025, the School was extended liberty for restoration of affiliation up to secondary level after lapse of one academic year i.e. from 2026-2027 after ameliorating the deficiencies pointed out with regard to running up to secondary level.

27. Liberty with respect to senior secondary level after two academic years, there is no dispute that the inspection report pointed out with regard to certain deficiencies but after perusal thereof, this Court finds that the inspection report in sum and substance either of suggestive for improvement or certain documents have not been furnished by the school.

28. In response to the show-cause notice, the petitioner has submitted necessary documents and gave point wise explanation with regard to all the shortcomings/



deficiencies with an undertaking that the same shall be removed at the earliest; however, the Director, AFFL while passing the order dated 24.02.2025, in the opinion of this Court has come to the finding that the school has manipulated its record to mislead the Board and committed irregularities in the maintenance of essential records, besides severe infrastructure deficiencies, which finding, *prima facie*, in the opinion of this Court, appears to be on assumption and presumption, unless before returning such findings of manipulation of its record, the school have been given an opportunity to be heard.

29. From the discussions made hereinabove, it is manifest that the very initiation of the action against the petitioner-school, from the stage of surprise inspection, its report show, show-cause notice and punishment order dated 24.02.2025 were without approval of the competent authority, either prior or post facto; all the more, any action/order which was wholly without jurisdiction at the inception cannot be legalized by the subsequent order passed by a competent authority and/or after getting approval of the competent authority. Hence, in the opinion of this Court, the first issue formulated, is answered in favour of the petitioner-school.

30. It is well settled that the decision which entails



severe civil consequences has to be preceded by compliance with the principles of *audi alteram partem* even if the statutory provision does not expressly so required. The requirement of grant of an opportunity of hearing in such cases has necessarily to be read into the statute.

31. In the case of **Maneka Gandhi v. Union of India [(1978) 1 SCC 248]**, the Apex Court emphasized that *audi alteram partem* is highly effective rule devised by the Court to ensure that a statutory authority arrives at a just decision and it is calculated to act as a healthy check on the abuse or misuse of power. Hence, its reach should not be narrowed and its applicability circumscribed.

32. It would be worth benefiting to encapsulate the relevant observation of the Apex Court in the case of **A.K. Karaipak v. Union of India [(1969) 2 SCC 262]**, which reads as follows:-

"If the purpose of the rules of natural justice is to prevent miscarriage of justice one fails to see why those rules should be made inapplicable to administrative enquiries. Often times it is not easy to draw the line that demarcates administrative enquiries from quasi-judicial enquiries.... Arriving at a just decision is the aim of both quasi-judicial enquiries as well as administrative enquiries. An



unjust decision in an administrative enquiry may have more far-reaching effect than a decision in a quasi-judicial enquiry.”

33. Two facets of maxim *audi alteram partem* has been underscored; firstly that the notice of the case to be made and further opportunity to explain. This rule cannot be sacrificed at the altar of administrative convenience of celerity. Unless there is an express provision under the Act of Statute excluding the application of principles of natural justice or *audi alteram partem*, it is universally respected and duty to afford a fair hearing.

34. The issue regarding principles of natural justice which implies the existence of moral principles of self evident and unarguable truth based on equity and good conscience was crystallized by the Apex Court in the case of **Swadeshi Cotton Mills v. Union of India [(1981) 1 SCC 664]**, where the Court in paragraphs-43 and 44 observed as follows:-

“43. Prof. de Smith, the renowned author of Judicial Review (3rd Edn.) has at p. 170, expressed his views on this aspect of the subject, thus:"Can the absence of a hearing before a decision is made be adequately compensated for by a hearing ex post facto? A prior hearing may be better than a subsequent hearing, but a subsequent hearing is



better than no hearing at all; and in some cases the courts have held that statutory provision for an administrative appeal or even full judicial review on the merits are sufficient to negative the existence of any implied duty to hear before the original decision is made. The approach may be acceptable where the original decision does not cause serious detriment to the person affected, or where there is also a paramount need for prompt action, or where it is impracticable to afford antecedent hearings."

44. In short, the general principle- as distinguished from an absolute rule of uniform application- seems to be that where a statute does not, in terms, exclude this rule of prior hearing but contemplates a post-decisional hearing amounting to a full review of the original order on merits, then such a statute would be construed as excluding the audi alteram partem rule at the pre-decisional stage. Conversely, if the statute conferring the power is silent with regard to the giving of a pre-decisional hearing to the person affected and the administrative decision taken by the authority involves civil consequences of a grave nature, and no full review or appeal on merits against that decision is provided, courts will be extremely reluctant to construe such a statute as excluding the duty of affording even a minimal hearing shorn of all its formal trappings and dilatory features at the pre-decisional stage,



unless, viewed pragmatically, it would paralyse the administrative progress or frustrate the need for utmost promptitude. In short, this rule of fair play "must not be jettisoned save in very exceptional circumstances where compulsive necessity so demands". The court must make every effort to salvage this cardinal rule to the maximum extent possible, with situational modifications. But, to recall the words of Bhagwati, J., the core of it must, however, remain, namely, that the person affected must have reasonable opportunity of being heard and the hearing must be a genuine hearing and not an empty public relations exercise."

35. After going through the afore-noted celebrated decisions clarifying the position, this Court has no iota of confusion that before inflicting the severest punishment of withdrawal of affiliation once the authority has discretion to impose anyone of ten penalties based upon the inspection report, the explanation of the petitioner; it would be in the interest of justice to provide complete adherence to *audi alteram partem*, which in the present case is lacking.

36. The decision referred by the learned Senior Advocate for the petitioner is though persuasive; however, a well read decision where the Court in identical facts, when the



Board before imposing the severest punishment failed to issue notice with regard to the specific punishment and applied specific reason for choosing that particular punishment for imposition, has interfered in the order and observed that if Clause 12.1 of the Affiliation Bye-Laws 2018 were to be invoked there would have had to be conscious application of mind by the CBSE to the various punishments, which could be imposed on a school, and a conscious decision, as part of the reason and speaking order, that the only punishment that the indiscretion of the school could visit on it was the punishment of disaffiliation and nothing lesser.

37. The Court also emphasized and underscored the requirement of extending the opportunity of hearing in such cases and held to be necessarily to be read into the statute after referring to various decisions rendered by the Hon'ble Supreme Court as well as different High Courts.

38. Similar view was also taken in the case of **Chand Ram Public School** (supra).

39. In view of the aforesaid discussions, the issue no. (ii) is answered that the Board has failed to observe the strict principles of natural justice and *audi alteram partem* and thus all the issues are decided in favour of the petitioner-school.



40. Both the impugned orders dated 19.04.2024 and 05.04.2025 are set aside, the consequences shall follow.

41. Before parting with the case, it would also be relevant to observe that since the inspection report, *prima facie*, is suggestive of improvement in the infrastructure and removal of certain discrepancies/shortcomings, the Board ought to provide certain period for curing all the defects/deficiencies and in case the same is not done, proceed in accordance with law, but in no case any order to the detriment of the students.

42. This Court is conscious of the fact that the Board is duly obligated under the Examination and Affiliation By-Laws to ensure standards of procedures, ensuring quality education and to bring the schools at par with all the schools of analogous plan of management affiliated with the Board. The quality of education is the necessity and the schools must be quality driven and strive for excellence in all aspects of its activities to ensure that quality; the schools are duty bound to follow the directions issued from time to time regarding introduction of innovative practices in areas of curriculum, pedagogy and evaluation.

43. With the aforesaid direction, after setting aside the impugned order(s), on both counts, the action initiated and the



order having been passed without the approval of the Board and in violation of the principles of *audi alteram partem*, the matter is being relegated to the Board to take appropriate action in accordance with Examination and Affiliation Bye-Laws after giving proper opportunity to the petitioner for curing defects/defencies and proceed further.

44. The writ petition stands allowed.

45. There shall be no order as to cost(s).

46. Pending application(s), if any, shall also stand disposed off.

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19-09-2025
Transmission Date	

