

In virtual Court

CWP-8729-2020

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-8729-2020 (O&M)
Date of decision: 14.10.2020

Haryana Private School & Children Welfare Trust

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: None for the petitioner.

Mr. Deepak Kumar Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for setting aside the order dated 15.06.2020 (Annexure P-3), vide which respondent No.3 has issued directions regarding issuance of school leaving certificate to outgoing students automatically within a period of 15 days, who want to take admission in govt. schools without clearing the outstanding dues of the member schools of the petitioner-trust w.e.f. March, 2020. It is stated that action of respondent No.3 is in violation of statutory provisions of Haryana Education Rules, 2003 (amended upto 2009) and Right of Children to Free & Compulsory Education Act, 2009.

It is further prayed that a writ of mandamus be issued to the respondents to treat the order dated 15.06.2020 as well as consequential proceedings arising out of the said order, vide which the students, who have not

paid the outstanding dues of member schools of the petitioner-trust and have taken admission in govt. schools, the member schools are bound to issue school leaving certificate. It is also prayed that a writ of mandamus be issued directing the respondents to grant permission to the member schools to struck off name of the students, who are not paying the monthly tuition fee, as the respondent authorities are passing the orders like the order dated 15.06.2020, which has no legal sanctity, being in violation of Rule 158 of Haryana Education Rules, 2003.

While issuing notice of motion, it was directed that mere pendency of the petition will be no ground for the private schools not to issue school leaving certificates to the students.

Short reply of Assistant Director (Academic) for Director, Secondary Education, Haryana has been filed. In this reply, it is stated that the students have liberty to choose a school of their choice as per Right to Education Act, 2009. Rule 194-A (savings clause) of Haryana School Education Rules, 2003 reads as under: -

“194-A Savings Clause

Notwithstanding anything contained in these rules, the Government may by general or special order, after recording its reasons and subject to such conditions, if any, as it may impose, exempt any individual, firm, society/trust or institution or a class of such individuals, firms, societies/trusts or institutions running or desirous of running a school from any of the provisions of these Rules.”

It is further stated in the reply that in exercise of powers under Rule

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194-A of Haryana School Education Rules, 2003, Director of Education had issued the orders dated 15.06.2020 and 26.06.2020 directing that the students be granted provisional admission in govt. schools, if they are not having school leaving certificate and intimation be sent to the concerned schools last attended by the students to issue online school leaving certificate. It was also directed that provisional admission of the students in the govt. schools will be treated as permanent admission, after the students submit the school leaving certificate of the school last attended.

Learned State counsel thus submits that since every student has a right under the Education Rules to select a school of his own choice, therefore, the petitioner has no locus to challenge the impugned orders dated 15.06.2020 and 26.06.2020.

Since there is no representation on behalf of the petitioner, present petition is dismissed for non-prosecution.

**[ARVIND SINGH SANGWAN]
JUDGE**

14.10.2020
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No