

CWP-7238-2023

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2023:PHHC:049800

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-7238-2023

Date of decision : 12.04.2023

Federation of Private Schools and Associations of Punjab

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

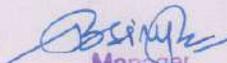
Present: Mr.Arjun Partap Atma Ram, Advocate
for the petitioner.

Mr.Ferry Sofat, Addl.A.G. Punjab
for the respondents.

VIKAS BAHL, J.(ORAL)

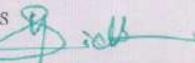
This is a civil writ petition filed under Article 226 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing the letter dated 09.01.2023 (Annexure P-10) with a further prayer for issuance of a writ of mandamus directing the respondents to issue permanent recognition orders to the members of the petitioner/Federation in terms of the provisions of The Right of Children to Free and Compulsory Education Act, 2009 (hereinafter referred to as "RTE Act 2009") and the Rules framed thereunder.

Learned counsel for the petitioner has submitted that the Indian Parliament had framed the Right of Education to Free and Compulsory Education Rules 2010 in terms of the RTE Act 2009 and Rule 15 and Rule 16 specifically deal with the procedure for recognition and withdrawal of recognition, respectively and a cumulative reading of the said two Rules


Manager
Akai Academy
Theb Kalander (u)

1 of 3

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Principal
Akai Academy
Theb Kalander (Fzk)

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would show that there is no provision for grant of a yearly/tenure recognition and in the said rules, there is only a one time recognition unless it is withdrawn under Rule 16 of 2010 Rules. It is further submitted that the State of Punjab, in terms of Section 38 of the RTE Act, has promulgated The Punjab Right of Children to Free and Compulsory Education Rules, 2011 and Rule 11 and 12 of the same are in pari materia with Rules 15 and 16 of the 2010 Rules framed by the Union of India. It is stated that the action of the authorities in granting recognition under the RTE Act / RTE Rules on a yearly / tenure / provisional basis, is, de hors the provisions of the Rules. It is further stated that the issue at hand is squarely covered by a judgment of a Coordinate Bench of this court in CWP no.12389 of 2021 titled as "Ameliorating India, NGO vs. State of Punjab and others" decided on 02.11.2021 (Annexure P-8) and has submitted that inspite of the said judgment, instructions are being issued again for grant of provisional recognition. It is submitted that as per the latest correspondence between the District Education Officer, Ludhiana dated 14.03.2023 and the Director Public Instructions (E.E.), Punjab, SAS Nagar, request has been made by the concerned authority to guide the authorities in terms of the judgment passed by Coordinate Bench of this Court. It is further submitted that for the grievances raised by the petitioner, the petitioner has given a representation dated 12.01.2023 and at this stage, he would be satisfied in case the Secretary, Department of School Education, takes a final decision on the said representation in a time bound manner. It is prayed that while adjudicating the same, the judgment of coordinate Bench (Annexure P-8), against which no LPA has been filed, be also taken into consideration.

Learned State counsel has submitted that the matter is under

consideration and a final decision on the said aspect would be taken by the


Manager
Akal Academy
Theb Kalander (F.)

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Secretary within a period of six weeks from the date of the receipt of certified copy of the present order.

Keeping in view the above said facts and circumstances, the present petition is disposed of with a direction to the Secretary, Department of School Education to consider and decide the representation dated 12.01.2023 (Annexure P-11), in accordance with law within a period of six weeks from the date of receipt of the certified copy of the present order. While taking a decision, the judgment of the coordinate Bench of this Court passed in CWP no.12389 of 2021 titled as "Ameliorating India, NGO vs. State of Punjab and others" decided on 02.11.2021 (Annexure P-8) be also taken into consideration.

(VIKAS BAHL)
JUDGE

April 12, 2023

Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No


Principal
Akal Academy
Theh Kalander (Fzk)


Manager
Akak Academy
Theh Kalander (Fzk)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.209

CWP No.12389 of 2021

Date of Decision : November 02, 2021

Ameliorating India, NGO

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

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

Mr. Kanisth Ganeriwala, AAG, Punjab.

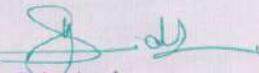
SUDHIR MITTAL, J. (ORAL)

The petitioner-society has established a school at Ludhiana. Vide application dated 28.03.2019, it applied to respondent No.3 for recognition. After completion of all necessary formalities, letter dated 11.02.2021 was issued granting provisional recognition for three years.

Learned counsel for the petitioner has submitted that the provisions of the Right of Children to Free and Compulsary Education Act, 2009 (hereinafter referred to as the Act) do not envisage provisional recognition for a school set up after coming into force of the said Act. Provisional recognition for a period of three years is only for those schools who were in existence prior to the coming into force of the Act to enable them to meet the standards and norms prescribed by the Act. Thus, grant of provisional recognition is illegal. Accordingly, a direction be issued to respondents to grant permanent recognition.

In the reply filed on behalf of the respondents, reliance is being placed upon instructions dated 15.01.2020 issued by respondent No.2. Apart from the same, there is no other justification forthcoming.


Manager
Akal Academy
Theh Kalander (FZK)


Principal
Akal Academy
Theh Kalander (Fzk)

CWP No.12389 of 2021

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A perusal of the instructions dated 15.01.2020 shows that the same have been issued to bring uniformity as recognition was being granted in different cases for 1/2 year or permanently. Statedly, the same is a violation of norms/rules under the Act.

A perusal of the Act shows that Sections 18 & 19 govern the issue of recognition. According to Section 18, no school shall be established without obtaining a certificate of recognition. There is an exception in favour of schools established on and controlled by the appropriate Government or a local authority. It further stipulates that recognition shall be granted on fulfilment of norms and standards specified under the Act. In case of contravention of any of the conditions of recognition, the same shall be liable to be withdrawn. Section 19 of the Act is regarding norms and standards to be fulfilled. Schedule to the Act prescribes the norms and standards. In respect of existing schools, it stipulates that they shall take steps to fulfill the norms and standards within a period of three years from the date of commencement of the Act, failing which recognition shall be liable to be withdrawn.

Neither of the aforementioned provisions provides for provisional recognition. Thus, instructions dated 15.01.2020 (Annexure R-2) are without jurisdiction. They are thus liable to be ignored.

For the aforementioned reasons, the writ petition deserves to be allowed. It is accordingly allowed. Respondent No.3 is directed to issue a fresh recognition certificate stating that the recognition is permanent in nature and takes effect from the date provisional recognition was granted vide communication dated 11.02.2021 (Annexure P-7).

November 02, 2021

Ankur

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No

(SUDHIR MITTAL)
JUDGE

Sudhir Mittal
Manager
Akai Academy
Thej Kalander
Sudhir Mittal
Principal
Akai Academy
Thej Kalander (Fzk)

FORM-II

See Sub Rule (4) of rule 11

E-Mail: deoee.fazilka@punjabeducation.gov.in

OFFICE OF DISTRICT EDUCATION OFFICER (E.E.) FAZILKA, (PUNJAB)

(Issued against Form No-D: SSAFZK/FZK-1/RTE/2018/08 Dated 01-04-2018)

No. SSAFZK/FZK-1/RTE/2018/08

Dated: 01-03-2018

The Manager,
Akal Academy, Theh Kalander,
District Fazilka.

Subject: Recognition Certificate for the School under sub-rule (4) of rule 11 of Right of Children to Free and Compulsory Education Rules, 2011 for the purpose of Section 18 of Right of Children to Free and Compulsory Education Act, 2009.

Dear Sir/Madam,

With reference to your application/self-declaration and subsequent correspondence with the school/inspection in this regard, I convey the grant for provisional recognition to the **Akal Academy, Theh Kalander, District Fazilka** for Class **First** to Class **Eighth** from the Session 2018-19 subject to the fulfillment of following conditions:-

1. The grant for recognition is not extendable and does not in any way imply any obligation to recognize/ affiliate beyond Class VIII.
2. The School shall abide by the provisions of Right of Children to Free and Compulsory Education Act, 2009 and the Right of Children to Free and Compulsory Education Rules, 2011.
3. The School shall admit in class I, to the extent of 25% of the strength of that class, children belonging to weaker section and disadvantaged group in the neighborhood and provide free and compulsory elementary education till its completion.

Provided, that in case of pre primary classes also, this norm shall be followed.

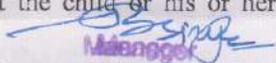
4. For the children referred to in paragraph 3, the School shall be reimbursed as per Section 12 (2) of the Act. To receive such reimbursements school shall provide a separate bank account
5. The Society/School shall not collect any capitation fee and subject the child or his or her parents or guardians to any screening procedure.
6. The School shall not deny admission-
 - a) To any child for lack of age proof.
 - b) If such admission is sought subsequent to the extended period prescribed for admission.
 - c) On the ground of religion, caste or race, place of birth or any of them.

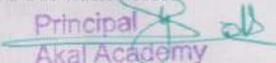
7. The School shall ensure that:

[Signature]
Manager
Akal Academy
Theh Kalander (Fzk)

[Signature]
Principal
Akal Academy
Theh Kalander (Fzk)

4. For the children referred to in paragraph 3, the School shall be reimbursed as per Section 12 (2) of the Act. To receive such reimbursements school shall provide a separate bank account
5. The Society/School shall not collect any capitation fee and subject the child or his or her parents or guardians to any screening procedure.
6. The School shall not deny admission-
 - a) To any child for lack of age proof.
 - b) If such admission is sought subsequent to the extended period prescribed for admission.
 - c) On the ground of religion, caste or race, place of birth or any of them.
7. The School shall ensure that:
 - a) No child admitted shall be held back in any class or expelled from school till the completion of elementary education in a school;
 - b) No child shall be subjected to physical punishment or mental harassment;
 - c) No child is required to pass any board examination till the completion of elementary education;
 - d) Every child completing elementary education shall be awarded a certificate as laid down under Rule 21,
 - e) Inclusion of Students with disabilities/special needs as per provision of the Act;
 - f) The teachers are recruited with minimum qualifications and are provided with minimum salary and allowances as laid under section 23(1) of the Act.
 - g) The teacher performs its duties specified under section 24(1) of the Act; and
 - h) The teachers shall not engage himself or herself for private teaching activities.


Manager
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8. The School shall follow the syllabus on the basis of curriculum laid down by appropriate authority.

9. The School shall enroll students proportionate to the facilities available in the school as prescribed in the section 19 of the Act.

10. The School shall maintain the standards and norms of the school as specified in section 19 of the Act. The facilities reported at the time of last inspection are as given under:-

a) Area of school campus	:	29 Kanal 3 Marla
b) Total Built Up Area	:	9011.6 Sq. ft.
c) Area of play ground	:	90 X 55 Sq. Mtr.
d) No. of class rooms	:	23
e) Room for Headmaster-cum-Office-cum-Storeroom	:	3
f) Separate toilet for boys and girls	:	10, 10
g) Drinking Water Facility	:	S. Pump, R O System
h) Barrier free Access	:	Yes
l) Availability of Teaching Learning Material	:	Yes
/ Play Sports Equipments/Library		

11. No unrecognized classes shall run within the premises of the school or outside in the same name of school.

12. The school buildings or other structures or the grounds are used only for the purposes education and skill development.

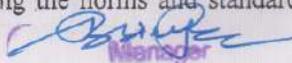
13. The School is run by a society registered under the Societies Registration Act, 1860 (Act No. XXI of 1860), or a public trust constituted under any law for the time being in force.

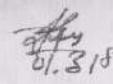
14. The School is not run for profit to any individual, group or association of individuals or any other persons;

15. The accounts should be audited and certified by a Chartered Accountant and proper accounts statements should be prepared as per rules. A copy each of the Statements of Accounts should be sent to the District Education Officer (Elementary) every year.

15. The accounts should be audited and certified by a Chartered Accountant and proper accounts statements should be prepared as per rules. A copy each of the Statements of Accounts should be sent to the District Education Officer (Elementary) every year.
16. The recognition Code Number allotted to your school is **SSAFZK/ FZK-1/RTE/2018/08**
(This may please be noted and quoted for any correspondence with this office)
17. The school furnishes such reports and information as may be required by the Department of Education/District Education Officer/Block Primary Education Officer from time to time and complies with such instructions of the State Government/ Local Authority as may be issued to secure the continued fulfillment of the condition of recognition or the removal of deficiencies in working of the school;
18. School will ensure the renewal of Building Safety Certificate and Fire Safety Certificate every year and provide attested copies to District Education Officer (E.E.) Fazilka at the beginning of every new session.
19. School will ensure that School Vans/Buses are complying the norms and standards of Safe School Vahan Scheme.
20. Renewal of Registration of Society if any, be ensured.
21. Other Conditions as per annexure III enclosed.


Principal
Akai Academy
Ther Kalander (Fzk)


Manager
Akai Academy
Ther Kalander (Fzk)


01.3.18
District Education Officer (E.E.),
Fazilka

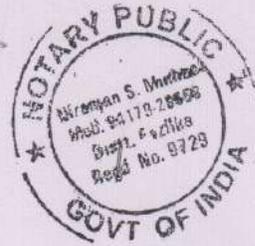
Attachee Punjab to English Translator.

SED-EDU301/114/2023-3EDU3 1/732379/2023(1)

Punjab Government
Education Department
(Education-3 Branch)

To

1. The Director School Education (E.S)
Punjab
 2. All District Education Officer (S.S/E.S)
Punjab
- Dated, Chandigarh 29-11-2023



Sub : Issuance of Recognition under the R.T.E Act

In the reference to the above subject and as per the government order No.SED-EDU01/114/2022-3EDU./645126 dated 19-09-2023

2. In relation to the subject matter, it is written that the private schools which have Recognition and has been issued under R.T.E Act and Punjab R.T.E Rules 2011. That Recognition should be considered as permanent Recognition.
3. It is also written here that the concerned District Education Officer or Sub District Education Officer will conduct regular inspection of private school on time and RTE will ensure to send a report to the government regarding the compliance of the act.

Sd/- in English 29-11-2023

Joint Secretary School Education

Seal & Sd/- in English

dated 16-04-2024

Principal
Akai Academy
Theh Kalander (Fzk)

Principal
Akai Academy
Theh Kalandar (Fzk)

Manager
Akai Academy
Theh Kalander (Fzk)

Niranjan S. Minhas (Adv)
Notary Public: FAZILKA

SED-EDU301/114/2023-3EDU3

I/732379/2023 (1)

ਪੰਜਾਬ ਸਰਕਾਰ
ਸਿੱਖਿਆ ਵਿਭਾਗ
(ਸਿੱਖਿਆ-3 ਸ਼ਾਖਾ)

ਸੇਵਾ ਵਿਖੇ,

1. ਡਾਇਰੈਕਟਰ ਸਕੂਲ ਸਿੱਖਿਆ (ਐ.ਸਿ.),
ਪੰਜਾਬ।
2. ਸਮੂਹ ਜਿਲ੍ਹਾ ਸਿੱਖਿਆ ਅਫਸਰ (ਜੈ.ਸਿ./ਐ.ਸਿ.),
ਪੰਜਾਬ।

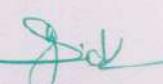
ਮਿਤੀ, ਚੰਡੀਗੜ੍ਹ: 29/11/23

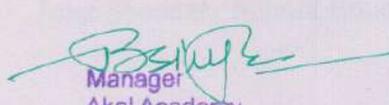
ਵਿਸ਼ਾ: ਆਰ.ਟੀ.ਈ. ਐਕਟ ਅਧੀਨ ਮਾਨਤਾ ਦੇਣ ਸਬੰਧੀ।

ਉਪਰਕੋਤ ਵਿਸ਼ੇ ਤੇ ਸਰਕਾਰ ਦੇ ਹੁਕਮ ਨੰ. SED-EDU301/114/2022-3EDU3/645126 ਮਿਤੀ 19.09.2023 ਦੇ ਹਵਾਲੇ ਵਿੱਚ।

2. ਵਿਸ਼ਾ ਅੰਕਿਤ ਮਾਮਲੇ ਸਬੰਧੀ ਆਪ ਨੂੰ ਲਿੱਖਿਆ ਜਾਂਦਾ ਹੈ ਕਿ ਜਿਹੜੇ ਪ੍ਰਾਈਵੇਟ ਸਕੂਲਾਂ ਨੂੰ ਆਰ.ਟੀ.ਈ. ਐਕਟ ਅਤੇ ਪੰਜਾਬ ਆਰ.ਟੀ.ਈ. ਰੂਲਜ਼, 2011 ਤਹਿਤ ਆਰਜੀ ਮਾਨਤਾ ਜਾਰੀ ਕੀਤੀ ਹੋਈ ਹੈ, ਉਸ ਮਾਨਤਾ ਨੂੰ ਪੱਕੀ ਮਾਨਤਾ ਸਮਝਿਆ ਜਾਵੇ।
3. ਇਹ ਵੀ ਲਿੱਖਿਆ ਜਾਂਦਾ ਹੈ ਕਿ ਸਬੰਧਤ ਜਿਲ੍ਹਾ ਸਿੱਖਿਆ ਅਫਸਰ ਜਾਂ ਉੱਪ-ਜਿਲ੍ਹਾ ਸਿੱਖਿਆ ਅਫਸਰ ਪ੍ਰਾਈਵੇਟ ਸਕੂਲਾਂ ਦਾ ਨਿਯਮਤ ਨਿਰੀਖਣ ਸਮੇਂ ਸਿਰ ਕਰਨਗੇ ਅਤੇ ਆਰ.ਟੀ.ਈ. ਐਕਟ ਦੀ ਪਾਲਣਾ ਕਰਨ ਸਬੰਧੀ ਸਰਕਾਰ ਨੂੰ ਰਿਪੋਰਟ ਭੇਜਣੀ ਯਕੀਨੀ ਬਣਾਉਣਗੇ।

29.11.23
ਵਿਸ਼ੇਸ਼ ਸਕੱਤਰ ਸਕੂਲ ਸਿੱਖਿਆ


Principal
Akai Academy
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