

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

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for grant of a yearly/tenure recognition and in the said rules, there is only a one time recognition unless it is withdrawn under Rule 16 of 2010 Rules.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

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	Yes/No
Whether reportable	Yes/No