

Government of Punjab
Department of School Education
(Education -3 Branch)

SPEAKING ORDER

No.SED-EDU301/114/2023-3EDU3/645726/2023

Dated, Chandigarh: 19.09.2022

This order is being passed in due compliance of order dated 12.04.2023 passed in CWP no. 7238 of 2023 – Federation of Private Schools and Association of Punjab v. State of Punjab and others, by the Hon'ble High Court. The operational part of the order reads as under: -

"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."

2.0 The Federation of Private Schools and Association of Punjab filed a Civil Writ Petition no. 7238 of 2023 before the Hon'ble Punjab and Haryana High Court with the prayer to issue permanent recognition orders to members of the petitioner Federation in terms of the Right of Children to Free and Compulsory Education

3.0 In due compliance of the aforesaid directions of the Hon'ble Punjab and Haryana High Court, the claim raised in the representation dated 12.01.2023 by the petitioner has been examined in the light of relevant rules and instructions issued by the Government from time to time, the record and the prevailing law.

4.0 That with regard to the claim of the petitioner, it is submitted that the Government of Punjab framed the Rules namely Right of Children to Free and Compulsory Education Rules, 2011, under the Right of Children to Free and Compulsory Education Act, 2009 (RTE Act). Section 18 of the RTE Act states that no school shall be established without obtaining a certificate of recognition. The relevant part of Section 18 of the RTE Act is being reproduced as under:-

"18. (1) No school, other than a school established, owned or controlled by the appropriate Government or the local authority, shall, after the commencement of this Act, be established or function, without obtaining a certificate of recognition from such authority, by making an application in such form and manner, as may be prescribed."

And whereas, Rule 11 of the Right of the Children to Free and Compulsory Education Rules, 2011, deals with the grant of recognition to schools for the purposes mentioned in Section 18 of the RTE Act. The said Rule 11 is being reproduced below:

"11. Recognition to Schools for the purpose of Section 18

(1) Every school, other than a school established, owned or controlled by the State Government or Local Authority, established before the

the norms and standards as prescribed in the Schedule and the following conditions:

- (a) the school is run by a society registered under the Societies Registration Act, 1860 (21 of 1860), or a public trust constituted under any law for the time being in force;*
 - (b) the school is not run for profit to any individual, group or association of individuals or any other persons;*
 - (c) the school conforms to the values enshrined in the Constitution;*
 - (d) the school buildings or other structures or the grounds are used only for the purposes of education and skill development;*
 - (e) the school is open to inspection by any officer authorized by the State Government/ Local Authority;*
 - (f) the school furnishes such reports and information as may be required by the Director of Education/ District 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;*
- (2) Every self declaration received in Form 1 shall be placed by the District Education Officer in public domain within fifteen days of its receipt.*

Form No 1 and the condition mentioned in sub-rule (1) within three months of the receipt of the self declaration.

(4) After the inspection referred to in sub-rule (3) is carried out, the inspection report shall be placed by the District Education Officer in public domain and schools found to be conforming to the norms, standards and the conditions shall be granted recognition by the District Education Officer in Form No. 2 within a period of 15 days from the date of inspection.

(5) Schools that do not conform to the norms, standards and conditions mentioned in sub rule (1) shall be listed by the District Education Officer through a public order to this effect, and shall be required to remove 40% of the deficiencies annually, shall send information about the same to the District Education Officer along with a request for interim appraisal of compliance and shall remove the total deficiencies any time before 31.03.2013, such schools may request the District Education Officer for an on-site inspection for grant of recognition.

(6) Schools which do not conform to the norms, standards and conditions mentioned in sub rule (1) even after three years from the commencement of the Act, shall cease to function.

(7) Every school, other than a school established, owned or controlled by the State Government or local authority established after the commencement of this Act shall conform to the norms and standards

(8) The school to be established under sub rule 7, shall apply for permission and recognition and each such application shall be examined and decided by the District Education Officer (EE) as per the terms and conditions and the criteria notified by government of Punjab.

5.0 Whereas from the above provision it is clear that the schools being run before the enactment of RTE Act had to submit Form no. 1 to the District Education Officer concerned regarding compliance of rules and norms as laid down in 11 (1). These schools were to be inspected by the District Education Officers and thereafter, upon fulfillment of all conditions within a period of 15 days, these schools were to be given recognition in Form no. II as per sub-rule 4 of Rule 11. This Form no. II appended to the Punjab RTE Rules mentions a period of three years of recognition. However, schools that do not conform to the norms, standards and conditions mentioned in sub rule (1) even after three years from the commencement of the Act, shall cease to function as per sub-rule 6 of Rule 11. However, for every school established after the enactment of the RTE Act, it will have to conform to the norms, standards and conditions mentioned in Rule 11(1) to qualify for recognition.

Therefore, from the discussion above it is clear that the schools that were functioning prior to the enactment of the RTE Act were to be given initial recognition for three years. Whereas the schools established after the enactment of the Act were to be given permanent recognition.

6.0 Whereas there is no provision of granting provisional recognition to schools

enactment of the RTE Rules, 2011, which is against the provisions of the Act. That as per these provisions of the RTE Act, 2009 and RTE Rules, 2011, it is clear that schools are to be granted permanent recognition after fulfilling norms, standards and conditions laid therein and the District Education Officer concerned shall regularly inspect the schools to ascertain if these schools are following the norms, standards and conditions as laid out in the Rules.

7.0 That further, the Hon'ble Punjab and Haryana High Court vide its order dated 02.11.2021 in CWP no. 12389 of 2021-Ameliorating India, NGO Versus State of Punjab and others has observed as under:-

"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 fulfillment 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

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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)."

8.0 In view of the provisions of Right of Children to Free and Compulsory Education Act, 2009 (RTE Act) and Right of Children to Free and Compulsory Education Rules, 2011 and in compliance of order dated 12.04.2023 passed by the Hon'ble High Court, I, Kamal Kishor Yadav, Secretary to the Government of Punjab, Department of School Education, have arrived at the conclusion that permanent recognition shall be granted to those schools by the District Education Officers, that fulfill the norms, standards and conditions, as laid down under Right of Children to Free and Compulsory Education Act, 2009 (RTE Act) and Right of Children to Free and Compulsory Education Rules, 2011 after thorough verification and record of such verification.

Dated, Chandigarh: 19.09.2023

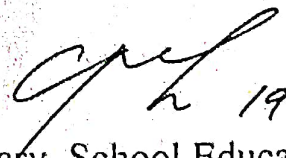
Kamal Kishor Yadav, IAS,
Secretary, School Education

Endst. No. SED-EDU 301/114/23-3EDU3/645126/23

Dated, Chandigarh: 19/9/2023

A copy of above is being forwarded to the following for immediate compliance and necessary action:

1. Director School Education (Secondary/Elementary), Punjab.
2. All District Education Officers (Secondary/Elementary), Punjab.


19.9.23
Special Secretary, School Education

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