

HARI CHAND

ADVOCATE

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ਵਕੀਲ

PUNJAB & HARYANA HIGH COURT

ਪੰਜਾਬ ਅਤੇ ਹਰਿਆਣਾ ਹਾਈ ਕੋਰਟ

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ਸੈਕਟਰ 44- ਸੀ

ਚੰਡੀਗੜ੍ਹ 160045

DATED: 6.4.2019

To,

The Chief Secretary, Government of Punjab, Punjab Civil Secretariat, Chandigarh.

Subject: Demand Notice for review of “The Punjab Regulation of Fee of Unaided Educational Institutions Act, 2016” – and for giving more teeth to the Regulatory Authority.

By E-mail

Dear Sir,

I hereby serve the instant Demand Notice on you:-

1. That the State Government has notified the aforesaid Act on 23.12.2016, and provided for constitution of Regulatory Body with a view to provide a mechanism for the purpose of regulating fee of unaided educational institutions in the State of Punjab and for the matters connected therewith or incidental thereto.

2. That there is provision for setting up a “Regulatory Body” under Section 3 of the aforesaid Act. The aforesaid Regulatory Body, which is headed by Divisional Commissioner of the concerned Division as Chairperson, has been constituted for exercising the powers conferred upon it and to perform various functions assigned to it under the aforesaid legislation.

3. That under Sections 4 and 5 of the aforesaid Act, certain criteria has been laid down for the purpose of fixation of fee by the unaided educational institutions. Similarly under Section 6, the various factors which are required

to be taken into consideration for the purpose of fixing or increasing the fee structure by unaided educational institutions have been laid down.

4. That the Regulatory Body on being informed that any unaided educational institutions has contravened or is contravening any of the provisions of the Act, may call for the records of such unaided educational institution in order to verify the information and then, after hearing the affected parties, may issue appropriate directions. However, the Regulatory Body is in fact, a teeth less body, which has no powers to enforce its orders. It is therefore, unable to execute its orders. The same is the position of the State Government (Education Secretary) to whom the affected party (complainant or the unaided educational institutions) can prefer an appeal against the order passed by the Regulatory Body. For instance, if the Regulatory Body directs the unaided educational institutions to refund the excess fee being charged by it, it cannot take any coercive action against such unaided educational institutions, for seeking compliance of its order. Thus, the aforesaid Regulatory Body can not achieve the object for which it has been constituted, and for which object the aforesaid statute has been enacted by the State of Punjab.

5. That for the aforesaid reasons, the parents and the students studying in unaided educational institutions, who dare to lodge any complaint against such unaided educational institution against charging excess fees, get frustrated, as the Regulatory Body is unable to execute its orders, even if it holds that the excess fee is being charged by any unaided educational institution. Rather, such complaint made by the parents of the students, leads to victimization of the students concerned. The instances of such nature are taking place all over the State of Punjab in various unaided educational institutions. Thus, the aforesaid legislation has been rendered non-workable, in view of the defective provisions contained in it. The legislation therefore, deserves to be reviewed and revised, for conferring some powers on the Regulatory Body, as well as on the State Government, for executing their own orders. This is all the more important because the various unaided educational institutions, against which the parents are lodging complaints are affiliated to independent boards, like Central Board of Secondary Education, and the State Government can not order even de-recognition or de-affiliation of such unaided educational institutions.

I would therefore, call upon you to take steps to review the aforesaid legislation, and to confer appropriate/adequate powers on the Regulatory Body as well as on the State Government (appellate authority), for the purpose of enforcing their orders issued in relation to the various matters covered under

the aforesaid legislation. In case, I do not hear any positive response from you, within a period of two months from the date of receipt of this notice, in that event, I would be left with no other option, except to approach the Hon'ble Punjab and Haryana High Court by way of Public Interest Litigation (PIL), which would of-course, be at your risk and cost.

Meanwhile, please acknowledge receipt of this demand notice.

Thanking you.

Yours sincerely,

(H.C. ARORA)

ADVOCATE