

(2010) 07 SHI CK 0054
In the High Court Of Himachal Pradesh

Om Chand and Another	Vs	APPELLANT
State of H.P. and Others		RESPONDENT

Date of Decision : 12-07-2010

Acts Referred:

Citation : (2010) 07 SHI CK 0054

Hon'ble Judges : Surjit Singh, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Surjit Singh, J.—There is a school in village Chuhar Ra Balh in Dharampur Block. School was established in the year 1996, pursuant to a Notification of the Government. There were six students in the school in 2010, when, vide Notification dated 27th April, 2010, Annexure P-4, it was ordered to be closed and the students were ordered to be shifted to the schools in nearby villages. Staff was ordered to be shifted to some other schools. Petitioners, who claimed to have played significant role in the establishment of the school, in the village, in the year 1996, are aggrieved by this Notification of closing the school. So, they have filed the present writ petition, seeking the quashing of Notification dated 27th April, 2010, Annexure P-4, and directing the respondents to keep the school running. It is alleged that the action has been taken by the Government to accommodate a close relative of a Minister of the Government, who wants to set up a stone-crusher near the school building, at a site, which is at a distance of 220 metres from the school building, though according to the Government Notification, laying down the guidelines for setting up stone-crushers, the distance between a school building and the stone-crusher should not be less than 1000 metres.

2. In the reply, respondents No. 1 to 3 have stated that the school has been closed, because there are other schools in the neighbourhood, which are at a distance of less than 1.5 km and the students of the denotified school can easily get admission in those schools. It is also stated that the students of the closed

school have already got themselves admitted in the schools in the adjoining vilalges.

3. I have heard the learned Counsel for the parties and gone through the record.

4. Petitioners have stated that there are several other schools in that very Block, in which the closed school is situated, and in some of those schools strength of the students is less than the strength of the students in the closed school and in one school there not even a single student, but those schools have not been denotified. Detail of those schools, numbering eleven, is given in the petition. While replying to this particular averment, respondents have admitted that there are eleven schools, which are having low strength of students and in one of the schools there is no student, while in one school there are two students and in another four and in one only six students. It has been stated that the matter regarding closure of such schools is under active consideration of the Government and further action will be taken only after finalizing the definition of "neighbourhood schools", as envisaged in the Right of Children to Free and Compulsory Education Act, 2009.

5. It is submitted on behalf of the respondents that in the past also the State had been closing the schools, with no or less strength of students, and that several schools were closed in the year 2008, vide Notification dated 5th March, 2008. This was before the enforcement of the Right of Children to Free and Compulsory Education Act, 2009. No school has been closed thereafter and as already noticed hereinabove, the respondents themselves have stated, in their reply, that closing of schools, with low strength of students, is under active consideration of the Government and final decision will be taken only after finalizing the definition of "neighbourhood schools", in accordance with the provisions of the said Act of 2009. If that is so, why the decision for closing the school, in question, has been taken on 27th April, 2010, that is to say after the coming into force of the Right of Children to Free and Compulsory Education Act, 2009. To a specific query, in this regard, there has not been any convincing reply.

6. In view of the abovestated position, Writ Petition is allowed. Impugned Notification, dated 27th April, 2010, Annexure P-4, is quashed. However, it will be open to the Government to take appropriate decision, whether to keep the school running or to close it, alongwith other schools with low or no strength of students, as and when it intends to take such a decision, after finalizing the definition of "neighbourhood schools", in terms of Right of Children to Free and Compulsory Education Act, 2009, as stated by the respondents themselves, in para-9 of their reply.

Pending application(s), if any, also stand disposed of, in view of the disposal of the main petition.