

(2016) 10 SHI CK 0046

In the High Court Of Himachal Pradesh

Case No : CWP No. 1046 of 2016 with CWP No. 1600 of 2016

Pushpinder Kumar

APPELLANT

Vs

State of H.P.

RESPONDENT

Date of Decision : 20-10-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Right of Children to Free and Compulsory Education Act, 2009 — Section 18, Section 19

Right of Children to Free and Compulsory Education Rules, 2010 — Rule 4

Citation : (2017) 1 HimLR 65

Hon'ble Judges : Mr. Mansoor Ahmad Mir, CJ. and Mr. Sandeep Sharma, J.

Bench : Division Bench

Advocate : Mr. Ashwani Pathak, Senior Advocate with Mr. Sandeep Sharma, Advocate in CWP No. 1600/2016, for the Respondent No. 5 in CWP No. 1046/2016; Mr. Lovneesh Kanwar, Advocate, for the Respondent No. 4 in CWP No. 1046/2016; Mr. Anoop Rattan, Mr. M.A. Khan and Mr

Final Decision : Disposed Off

Judgement

Sandeep Sharma, J. - Since in both the petitions, common questions of facts and law are involved, same are being taken up together with the consent of the parties. However, for the sake of clarity, facts of CWP No. 1046/2016 are being discussed herein.

2. Petitioner in CWP No. 1046/2016 approached this Court seeking following main reliefs :

"(i) That directions may very kindly be issued to the respondents No. 1 to 4 to take immediate action to stop the running of respondent No. 5 school.

(ii) That respondents may very kindly be directed to inspect all privately managed schools being run in the State of Himachal Pradesh and to take stern action against all those who are running schools without any affiliation from respondent No. 4 or any recognition or No Objection Certificate from the

Education Department and action may very kindly be ordered to be taken against authorities who have taken recognition or affiliation either by forging documents or by concealment of facts which would be evident once inspection of all the schools is carried out, in the interests of justice and fair play."

3. In nutshell, petitioner claimed that since the authorities concerned failed miserably to perform their duties as enshrined under the Right of Children to Free and Compulsory Education Act, 2009 (in short "Act"), he was compelled to file petition under Article 226 of the Constitution of India, seeking therein directions to the respondents to ensure compliance of the provisions contained in the Act. Petitioner further averred in the petition that respondent No. 5-School is being run by the authorities in complete violation of the provisions as contained in the Act and as such same needs to be closed immediately. Petitioner specifically stated in the petition that respondent No. 5-school is being run in a residential accommodation which is very small in size and there are no qualified teachers to teach the students. Petitioner further averred that there is no space outside the residential accommodation for the children to even stand and there is constant threat to their lives as the students keep sitting on railings where space is very congested. Since respondent No. 5 School, despite there being representation made by the residents of the area, failed to address the genuine problems highlighted in the representation (annexure P-1), petitioner issued a legal notice to respondent No. 5 School, and authorities including the Deputy Directors of Higher/Elementary Education, Solan, District Solan, vide annexure P-2. Pursuant to the aforesaid notices, the Deputy Director of Elementary Education, Solan sent a communication to the Director Elementary Education, (annexure P-4), relevant portion of which is reproduced herein below :

"Para 1 In this regard, the department of Education has granted NOC to Gaytri Vidya Mandir Village Rauri which is situated 2 kilometers far from Darlaghat in the year 2006 vide Director of Elementary Education Himachal Pradesh vide letter No. EDN-(Ele)H(3)GI/2006-NOC dated 10-08-2006 and Dy. Director of Education Solan Distt. Solan vide letter No. EDN-SLN(GII)3/2006 (NOC)-10855 dated 11-08-2006 after the inspection of the school situated at village Rauri (Darlaghat) and on the basis of issuance of NOC's the school was recognised in the year 2012 for five years i.e. upto 2017. The school was granted recognition for the Gaytri Vidya mandir Village Rauri not for Darlaghat. As per statement of the Principal school management has shifted the school from village Rauri to Darlaghat without obtaining permission of Education Department. In this regard the school is being issued show cause notice for this serious lapse as to why the recognition may not be withdrawn. The Easwaramma public school is running at Darlaghat market since 2006 after getting NOC in the year 2006 and recognition in the year 2012. The school is running in a rented building and som portion of the building being used for residences and top floor is being used for shop purpose. The school is having about 200 students from class 1st to 8th. This school is also being issued a show cause notice taking the steps for the withdrawal of recognition.

Para 2 The EPS School is running since 2006 at Darlaghat hence shifting of students from another village is denied. However it is well known to the then Dy. Director of Elementary Education that why this school was issued recognition. The facts of the teachers could not be inquired as the school were closed for winter vacation and record of school was under lock and key. In view of the above, after getting the reply of the show cause notice being issued to both the schools, temporarily, renewal of recognition will not be granted for next academic session. The academic session of both schools is ending and if the school recognition is withdrawn immediately the school students will have to face great difficulty. Keeping in view the future and studies of the students the school is being allowed to be opened till the exams are over. Hence, the above stated parawise comments are submitted for favour of further necessary action please."

4. Perusal of aforesaid communication sent by the Deputy Director of Elementary Education to the Director Elementary Education, clearly suggests that No Objection Certificate was issued by the Department to Gayatri Vidya Mandir School in the year 2006, on the basis of which school was recognised in the year 2012. Interestingly, No Objection Certificate as well as recognition to the school was granted for a place called, "Rauri", whereas management of respondent No. 5 shifted the school to Darlaghat without obtaining prior permission from the Education Department. Aforesaid communication clearly suggests that the school was granted recognition for Gayatri Vidya Mandir village Rauri and not for Darlaghat where, at present, school is being run by respondent No. 5. It also emerges from the communication referred to herein above that the school is being run by respondent No. 5 in a rented building and some portion of the building is being used for residence and top floor of the same is being used as shop. At present more than 200 students are studying in classes 1st to 8th. Since the Deputy Director of Elementary Education noticed various discrepancies as have been pointed out herein above, he intended to issue a show cause notice to the school before taking steps for withdrawal of recognition. However, keeping in view the future of the students studying in the school, authorities allowed the school to be opened till the exams were over.

5. Similarly, the Himachal Pradesh Board of School Education in its reply to the legal notice issued to it, also informed vide annexure P-5 that respondent No. 5 i.e. Gayatri Public School, Darlaghat is not affiliated with the Board. In the aforesaid background, petitioner by way of CWP No. 1046/2016 approached this Court praying therein for reliefs as have been reproduced herein above.

6. During the pendency of the aforesaid petition, respondent No. 3 filed a short reply in compliance with order passed by this Court on 16.5.2016. It would be apt to reproduce the following paras of the reply :

"2. That as information received from the Dy. Director of Elementary Education vide his letter No. EDN-SLN(G-I)21/2016-17 dated 15.06.2016 he visited the concerned school and it was noticed by him that the school was running without recognition and obtaining any affiliation from Himachal Pradesh Board of School

Education, Dharmshala. In the month of December 2015 the classes were started in this school from class 1st to 10th and fee etc. were charged from the students .

3. That When the Dy. Director of Elementary Education, Solan asked the concerned Principal to submit the documents of building along with the certificate from Public Works Department of Himachal Pradesh and fire safety certificate from Fire Department. The concerned Principal failed to submit the same .

4. That the Dy. Director of Elementary Education, Solan has directed the Principal, Gayarti Vidya Mandir, Darlaghat to close the School, w.e.f. 15.06.2016 and the copy of same is annexed as Annexure R-1 for kind perusal of the Hon"ble Court please.

5. That the statement of 9 local residents of Darlaghat and surrounding villages were also recorded by the Dy. Director of Elementary Education, Solan and it has been stated that when the school was started in December, 2015 the name of this school was Gayarti Public School Darlaghat, but after April, 2016, the name of this school was changed by Smt. Vinati Mukul and was renamed as Gayatri Vidya Mandir Darlaghat. The copy of the same is annexed as Annexure R-II for kind perusal of this Hon"ble Court please."

7. It clearly emerges from the reply referred to herein above that the Deputy Director of Elementary Education visited the respondent No. 5-school and found that the school was being run without recognition and without obtaining any affiliation from the Himachal Pradesh Board of School Education, Dharamshala. It further emerges from the reply that the Principal of the concerned school failed to submit required documents of building along with certificate from HP PWD as well as fire safety certificate from Fire Department, as a result of which, respondent No. 4 i.e. Deputy Director of Elementary Education, Solan directed the Principal of respondent No. 5 to close the school w.e.f. 15.6.2016 (annexure R-1). It also emerges from the reply as referred to herein above, that the school was started in December 2015 at Darlaghat by changing name of school from Gayatri Vidya Mandir, Rauri to Gayatri Public School, Darlaghat without obtaining prior permission of the authorities concerned. However, the fact remains that the Principal of the School lateron in April, 2016 herself changed the name of school to Gayatri Vidya Mandir, Darlaghat.

8. Contents of letter dated 15.6.2016 are reproduced as under :

"The undersigned has visited the school running without recognition and obtaining any affiliation from H.P.B.S. Education Dharamshala. In the month of December 2015, you have started the classes from 1st to 10th in this school and charging fees from the students.

When undersigned asked you to submit the documents of building along with the certificate of PWD and fire safety department, you failed to submit the same.

Under the powers of the R.T.E. Act 2009 and H.P. Govt. R.T.E. amended rules,

2011, it is ordered to get your school closed with immediate effect i.e. from 15/06/2016. The S.D.M. Arki has also informed to close the School. It is also suggested in future not to open the School anywhere else without observing all the codal formalities as specified under RTE Rules, 2009."

9. Since vide aforesaid communication, respondent No. 5 was directed to close the school with immediate effect, respondent No. 5 i.e. Gayatri Public School Darlaghat filed CWP No. 1600/2016, in the name of Baghal Educational Society v. State of Himachal Pradesh, praying therein for the following reliefs :

"(i) That the impugned order dated 15.06.2016 may kindly be quashed and set aside.

(ii) That the inquiry may be initiated to investigate the antecedents of respondents No. 6 to 8 in as much as false complaint against the petitioner society before this Hon"ble Court in the name of public interest litigation.

(iii) That the respondents No. 6 to 8 may be ordered to pay the cost of this litigation along with interim damages to the tune of Rs. 5 Lakhs, in case, the complaint against the present petitioner is found false."

10. In the petition referred to herein above, petitioner-society claimed that it was running school to impart education to the children of the area after obtaining necessary No Objection Certificate, annexure P-2, from respondent No. 4. Petitioner-society further claimed that since recognition certificate of school was further renewed vide letter dated 9.7.2012, wherein time was extended from 2012-13 to 2016-17, as such, there is no violation of the conditions contained in the No Objection Certificate granted by the authorities. In nutshell, petitioner in CWP No. 1600/2016 claimed that since the school in question is running in conformity with the guidelines contained in the No Objection Certificate as well as provisions contained in the Act *ibid*, there was no occasion, whatsoever, for the authorities to issue notice dated 15.6.2016, whereby direction was issued to close the school on the false complaints of the petitioner in CWP No. 1046/2016. Petitioner-society further claimed that the school was running in a safe building after completion of requisite codal formalities necessary to run the school including building safety certificate. Society also placed on record copy of fire safety certificate and No Objection Certificate issued by the authorities to demonstrate that the school is being run after obtaining necessary permission from the authorities concerned and there was no violation, if any, of the provisions enshrined in the Act. To the contrary, petitioner-society claimed that decision to close the school was taken by the authorities on the basis of frivolous complaints made by respondents No. 7 and 8, who had leased out building to the society for running school. As per the petitioner-society, since respondent No. 8 failed to perform certain duties in terms of the rent agreement dated 6.12.2013, entered into between the society and respondent No. 8, respondent No. 8 started harassing petitioner-society by creating mischief in order to get the building vacated from the petitioner-society. Petitioner-society also claimed that

respondent No. 7 (petitioner in CWP No. 1046/2016) also signed as a witness to the rent agreement dated 6.12.2013 and as such, by no stretch of imagination, petition filed by him can be termed to be a "public interest litigation", rather the same is sheer abuse of process of law.

11. Respondents, in their reply to the petition filed by the society, reiterated that the Deputy Director of Elementary Education visited the Gayatri Vidya Mandir, Darlaghat and noticed that school was being run without recognition from Education Department and affiliation from Himachal Pradesh Board of School Education. Respondents also stated that the concerned Principal failed to submit documents of the building along with certificate of PWD and fire safety certificate from the Fire Department and as such there was no illegality in issuing letter dated 15.6.2016, whereby the petitioner-society was ordered to close the school with immediate effect. Apart from above, respondents also stated that affiliation, if any, was granted to Gayatri Vidya Mandir, Rauri and not to Gayatri Public School, Darlaghat, no school can be allowed to be run without there being necessary affiliation from the authorities concerned, at Darlaghat, District Solan, Himachal Pradesh.

12. We have heard the learned counsel for the parties and gone through the record very carefully.

13. Since the issue in both the petitions was with regard to affiliation of Gayatri Vidya Mandir School, Rauri/Darlaghat, District Solan, this Court vide order dated 18.7.2016, consolidated both the petitions for hearing. However, vide order dated 11.8.2016, this Court, after perusing the pleadings made available on record by the respective parties as well as submissions having been made on behalf of the counsel appearing for the petitioner-society in CWP No. 1600/2016, wherein he stated at Bar that the Deputy Director of Elementary Education be directed to examine all the documents of the petitioner and to submit a detailed report, directed the parties to cause appearance before respondent No. 3 on 12.8.2016 with all the documents. This Court also directed respondent No. 3 to examine all the documents and submit report pursuant to aforesaid directions.

14. Respondent No. 3 submitted compliance report in a sealed cover, copies whereof were made available to the learned counsel representing the parties. Respondent No. 5, in CWP No. 1046/2016 (petitioner in CWP No. 1600/2016) filed response to the report. It would be apt to reproduce herein below report submitted by respondent No.3 in compliance to order dated 11.8.2016 of this Court :

"2. That in compliance to the above directions the petitioner Ms. Vinti Mukul, Principal, Gayatri Vidya Mandir, School, Rauri at Darlaghat appeared before the undersigned on 12.08.2016, 16.08.2016, and respondent No. 7 did not appear. During the course of hearing Ms. Vinti Mukul, Principal, Gayatri Vidya Mandir, School, Rauri at Darlaghat contended/stated as under : -

(i) That Baghal Education Society was registered in the year 2004 vide

Registration No. 59/Arki/2004 dated 03.06.2004. The Headquarter of Baghal Shikksha Samiti is at Darlaghat.

(ii) That the society had started a school under the name Gayatri Vidya Mandir at Rauri/Khatta near Darlaghat District Solan, and necessary No Objection Certificate was obtained from the office of Dy. Director of Education, Solan vide his letter No. EDN-SLN(G-II)3/2006 (NOC)- 10585 dated 11.08.2006. Further she stated that she is also working as President of the Society.

(iii) That the School was initially started in the building of Sh. Kirpa Ram resident of Village Rauri for the first one year, then it was shifted to the building of Sh. Bhagirath at Rauri/Khatta and remained functioning there up to November 2015.

(iv) That with the coming into force the RTE Act, 2009 the fresh Recognition and affiliation was obtained to run the school, on 09.07.2012 and 04.03.2016 with certain conditions from the Dy. Director of Elementary Education Solan to complete the shortcomings of the school and only to the extent of conducting the examination of the students who were to appear in the examination of 10th class so that the students should not suffer. Further, the recognition was also obtained from Himachal Pradesh Board of School Education Dharmshala by the concerned school.

(v) That due to some unavoidable circumstances, the School was shifted on 15.11.2015 from earlier location to the building owned by Sh. Narender Sharma situated at Darlaghat. Factum of shifting of the school was informed to the Board of School Education on 16.11.2015 and subsequently to the Dy. Director of Elementary Education Solan on 02.02.2016.

(vi) That right from the starting of the school she is working as Principal of the School and also looking after the affairs of the school. The School was upgraded to the High Standard after obtaining the NOC from the Directorate of Elementary Education, Himachal Pradesh and the school has 18 rooms, five toilets and a playground also.

(vii) That in January 2016 she had received a Show Cause Notice from the Dy. Director of Elementary Education , Solan but she does not remember whether the same was replied or not.

(viii) That the Fire Safety Certificate in respect of new premises at Darlaghat has been issued by the Chief Fire Officer Shimla-2 vide Certificate No . 381 dated 18.01.2016 and Building Safety Certificate has been issued by the Assistant Engineer HPPWD, Darlaghat vide his letter No DSD/Building/2016-17 dated 06th June 2016. She has also produced the building map in respect of" Gayatri Vidya Mandir School at Darlaghat along with the balance sheet of the Society.

(ix) That the landlord and one his relative i.e. Sh. Pushpender Kumar are stressing to vacate the premises occupied by the School thus are making false complaints against the Society/School."

15. Perusal of aforesaid report suggests that the Baghal Educational Society (petitioner in CWP No. 1600/2016) was registered in the year 2004 with its headquarters at Darlaghat. Aforesaid society started school in the name and style of Gayatri Vidya Mandir at Rauri/Khatta near Darlaghat District Solan, and in this regard, No Objection Certificate was obtained from the office of Deputy Director of Elementary Education vide letter dated 11.8.2006. It also emerges from the report that the school was initially started at village Rauri and it remained functional there upto November, 2015. After coming into force the Right of Children to Free and Compulsory Education Act, 2009, petitioner-society obtained fresh recognition/affiliation to run the school subject to completion of shortcomings pointed out by the Deputy Director of Elementary Education Solan. It also emerges from the record that necessary recognition was also obtained from Himachal Pradesh Board of School Education for the school at Rauri. However, it clearly emerges from the record as well as admission having been made by the Principal of the School that the School was shifted on 15.11.2015 from Rauri to Darlaghat without obtaining necessary permission from the authorities concerned. Petitioner-society also produced fire safety certificate in respect of premises at Darlaghat which was issued by Chief Fire Officer, Shimla vide Certificate No. 381 dated 18.1.2016 and building safety certificate issued by Assistant Engineer, HP PWD, Darlaghat on 16.6.2016. Deputy Director of Elementary Education specifically stated in his report that on 15.1.2016, on visit, the Gayatri Vidya Mandir School was not found at Rauri. But later on, on inquiry from local residents at Rauri, it transpired that the school stands shifted to Darlaghat and was not functioning at Rauri. Accordingly, on 21.1.2016, a show cause notice was issued to the Principal qua shifting of the school without completing codal formalities as per the Act *ibid* but aforesaid communication was never replied to by the Principal of the concerned school, as a result of which Deputy Director of Elementary Education again visited Gayatri Vidya Mandir School Darlaghat on 15.6.2016, on which date, management of the school failed to make available required documents, and the school was found to have been running without recognition and affiliation from Himachal Pradesh Board of School Education, in the name and style of Gayatri Vidya Mandir School, Darlaghat. Since the Principal of the school concerned failed to produce the relevant documents, direction was issued to the Principal, Gayatri Vidya Mandir School, Darlaghat to close down the school. Deputy Director of Elementary Education, Solan also recorded the statements of local residents, who categorically stated that when the school was shifted in 2015, name of school was Gayatri Public School Darlaghat but after April, 2016, name of the school was restored by Ms. Vinti Mukul, Principal, as Gayatri Vidya Mandir School, Darlaghat. Director Elementary Education, Himachal Pradesh has unambiguously stated in his report that perusal of record produced by the Principal, Gayatri Vidya Mandir School, Darlaghat as well as Deputy Director of Elementary Education, Solan, clearly suggests that the school was recognised and affiliated as Gayatri Vidya Mandir School, Rauri which was at a distance of 3.5 kms from Darlaghat. Director Elementary Education, Himachal Pradesh reiterated that

aforesaid school was shifted from Rauri to Darlaghat without any prior permission/completion of codal formalities. Since, the Principal, Gayatri Vidya Mandir School during inquiry produced fire safety certificate and building safety certificate issued by concerned authorities qua the building at Darlaghat, same could not be taken into consideration by the Director Elementary Education while submitting his report because, admittedly, affiliation/recognition, if any, was issued by the authorities to the petitioner-society for running school in the name and style of Gayatri Vidya Mandir at Rauri and not Gayatri Vidya Mandir at Darlaghat. It stands duly proved on record by way of the aforesaid report submitted by Director Elementary Education that recognition/affiliation, if any, was granted by the authorities for running school at Rauri in the name and style of Gayatri Vidya Mandir, admittedly, not at Darlaghat where, at present, school was being run in the name of Gayatri Vidya Mandir, Darlaghat.

16. Close scrutiny of aforesaid report submitted by Director Elementary Education as well as documents placed on record by the petitioner-society and the respondents clearly suggests that the petitioner-society had no authority to run the school in the name and style of Gayatri Vidya Mandir School at Darlaghat because permission, if any, was only granted to run the school at Rauri, which is at a distance of 3.5 kms from Darlaghat.

17. Hence, this Court sees no illegality in issuance of communication dated 15.6.2016 by respondent No. 3 to the petitioner-society, wherein direction has been issued to close down the school with immediate effect with further direction not to open school anywhere else without observing codal formalities as envisaged under the Act *ibid*.

18. Consequently, in view of the detailed discussion herein above, especially report submitted by Director Elementary Education pursuant to the orders passed by this Court, this court sees no illegality or infirmity in the orders issued by respondent authorities to close down the school till the completion of necessary codal formalities as provided under the Act. It stands duly proved on record that no permission, whatsoever, was ever taken by the petitioner-society/respondent-school before shifting the school from Rauri to Darlaghat. As such, this Court has no hesitation to conclude that the action of the petitioner-society/respondent School in shifting the school from Rauri to Darlaghat without obtaining necessary permission from the authorities concerned was in complete violation of the affiliation/recognition granted to run the school at Rauri. Similarly, this Court is of the view that the fire safety and building safety certificates produced by the petitioner-society for running school at Darlaghat have no relevance especially in view of the fact that original affiliation/recognition was for setting up school at Rauri and not at Darlaghat. In case, petitioner-society wanted to open school at Darlaghat, it was incumbent upon it to obtain necessary No Objection Certificate/affiliation from the concerned authorities and, by no stretch of imagination, society can be allowed to open school at Darlaghat on the basis of affiliation granted to it to run school at Rauri.

19. At this stage, it may be observed that the law-makers of the Country solely with a view to ensure compliance of the Directive Principles of State Policy enumerated in our Constitution, wherein it has been specifically stated that the State shall provide free and compulsory education to all the children upto the age of 14 years, enacted the Right of Children to Free and Compulsory Education Act, 2009 to ensure that number of children particularly the children of disadvantaged groups and weaker sections, who drop out of school before completing their elementary education, may get free education. Apart from this, the Parliament by bringing aforesaid Act also intended to improve the standard of education because, admittedly, quality of learning achievements has not been entirely satisfactory even in case of the children who complete elementary education. Accordingly, Right of Children to Free and Compulsory Education Bill, 2008 was proposed to be enacted with the following objects to be achieved :

(a) that every child has a right to be provided full time elementary education of satisfactory and equitable quality in a formal school which satisfies certain essential norms and standards;

(b) "compulsory education" casts an obligation on the appropriate Government to provide and ensure admission, attendance and completion of elementary education;

(c) "free education" means that no child, other than a child who has been admitted by his or her parents to a school which is not supported by the appropriate Government, shall be liable to pay any kind of fee or charges or expenses which may prevent him or her from pursuing and completing elementary education;

(d) The duties and responsibilities of the appropriate Governments, local authorities, parents, schools and teachers in providing free and compulsory education; and

(e) A system for protection of the right of the children and a decentralized grievance redressal mechanism.

20. Sections 18 and 19 of the Act *ibid* specifically deal with the recognition, norms and standards of the schools as under :

"18. No school to be established without obtaining certificate of recognition. ? (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.

(2) The authority prescribed under sub-section (1) shall issue the certificate of recognition in such form, within such period, in such manner, and subject to such conditions, as may be prescribed.

Provided that no such recognition shall be granted to a school unless it fulfils norms and standards specified under section 19.

(3) On the contravention of the conditions of recognition, the prescribed authority shall, by an order in writing, withdraw recognition :

Provided that such order shall contain a direction as to which of the neighbourhood school, the children studying in the derecognized school, shall be admitted :

Provided further that no recognition shall be so withdrawn without giving an opportunity of being heard to such school, in such manner, as may be prescribed.

(4) With effect from the date of withdrawal of the recognition under sub-section (3), no such school shall continue to function.

(5) Any person who establishes or runs a school without obtaining certificate of recognition, or continues to run a school after withdrawal of recognition, shall be liable to fine which may extend to one Lakh rupees and in case of continuing contraventions, to a fine of ten thousand rupees for each day during which such contravention continues."

19. Norms and standards for school. ? (1) No school shall be established, or recognised, under section 18, unless it fulfils the norms and standards specified in the Schedule.

(2) Where a school established before the commencement of this Act does not fulfil the norms and standards specified in the Schedule, it shall take steps to fulfil such norms and standards at its own expenses, within a period of three years from the date of such commencement.

(3) Where a School fails to fulfil the norms and standards within the period specified under subsection (2), the authority prescribed under subsection (1) of section 18 shall withdraw recognition granted to such school in the manner specified under sub-section (3) thereof.

(4) With effect from the date of withdrawal of recognition under sub-section (3), no school shall continue to function.

(5) Any person who continues to run a school after the recognition is withdrawn, shall be liable to fine which may extend to one lakh rupees and in case of continuing contraventions, to a fine of ten thousand rupees for each day during which such contravention continues.

21. Similarly, Rule 4 of Right of Children to Free and Compulsory Education Rules, 2010 provides for preparation of school development plan as under :

4. Preparation of School Development Plan. ? (1) The School Management Committee shall prepare a School Development Plan at least three months before the end of the financial year in which it is first constituted under the Act.

(2) The School Management Plan shall be a three year plan comprising three annual sub plans.

(3) The School Development Plan, shall contain the following details, namely : -

(a) estimates of class-wise enrolment for each year;

(b) requirement of the number of additional teachers, including Head Teachers, subject teachers and part-time instructors, separately for Classes I to V and for classes VI to VIII, calculated with reference to the norms specified in the Schedule;

(c) physical requirement of additional infrastructure and equipments, calculated with reference to the norms and standards specified in the Schedule;

(d) financial requirement in respect of (b) and (c) above, including for providing special training facility specified in section 4, entitlements of children such as free text books and uniforms, and any other additional requirement for fulfilling the responsibilities of the school under the Act.

(4) The School Development Plan shall be signed by the chairperson or vice-chairperson and convenor of the School Management Committee and submitted to the local authority before the end of the financial year in which it is prepared.

22. Perusal of aforesaid provisions enshrined under the Act as well as Rules clearly cast a duty upon the authorities, before granting recognition/ affiliation, to ensure minimum standards to be maintained by the schools while imparting education to the children. In the present case, as clearly emerges from the record, school at Darlaghat was being run in complete violation of the provisions contained under the Act and there are no basic facilities as required under the Act, as such, this Court sees no reason to allow Gayatri Vidya Mandir School at Darlaghat to continue until it complies with all the codal formalities.

23. Having said so, there is no illegality or infirmity in order dated 15.6.2016 issued by the Deputy Director of Elementary Education.

24. Accordingly, while disposing of the present petitions, this Court deems it fit to direct the authorities concerned to ensure that no school in the name of Gayatri Vidya Mandir School, Darlaghat runs at Darlaghat without completion of necessary codal formalities as envisaged under the Act *ibid*. All pending applications, in both the petitions, are also disposed of and, interim directions, if any, are vacated.