

Court No. - 2

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 542 of 2024

Petitioner :- Iddu

Respondent :- State Of U.P. Thru Prin.Secy. Education Lucknow And Ors.

Counsel for Petitioner :- Ashok Kumar,Chandra Prakash,Neeraj Kumar
Rastogi

Counsel for Respondent :- C.S.C.,Illegible

Hon'ble Alok Mathur,J.

Hon'ble Arun Kumar Singh Deshwal,J.

1. Heard Sri Neeraj Kr. Rastogi, learned counsel for the petitioner as well as learned Standing Counsel for the State.

2. The present writ petition has been filed seeking direction to consider the application of the petitioner for taking action against the schools which are being run without getting any recognition as per the U.P. Right of Children to Free and Compulsory Education Act, 2009 (hereinafter referred to as "Act, 2009") and it is further prayed that action may be taken against all the schools running in district Lakhimpur Kheri without getting recognition from the concerned authority.

3. Learned counsel for the petitioner has submitted that under the Act, 2009 as well as U.P. Right of Children to Free and Compulsory Education Rules, 2011 (hereinafter referred to as 'Rules, 2011"), establishing or running of schools without getting recognition from the concerned authority is prohibited. It is further submitted that several news items were published regarding running of schools in District Lakhimpur Kheri without getting recognition from the concerned authority and the petitioner also made a complaint to the Principal Secretary, Education, U.P. at Lucknow regarding running of several schools without getting recognition, but no action has been taken.

4. Considering the aforesaid submission and on perusal of the record, this Court is of the view that though the petitioner has raised grievance regarding running of several schools without getting recognition in District Lakhimpur Kheri only, this issue is relevant for the entire State where several schools are being run without getting recognition from the concerned authority and are playing with the future of children.

5. Section 18 of the Act, 2009 especially provides that after the commencement of this Act no school will be established or continue to run without getting recognition from the concerned authority except the schools, established and run by appropriate Government or local authority. Section 18 of the Act, 2009 is quoted 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 derecognised 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."

6. For enforcement of the provisions of the Act, 2009 the State of U.P. has also framed the Rules, 2011 under Section 38 of the Act, 2009 which also prescribes that no school will be established or run without getting recognition from the concerned authority. Rule 11 of the Rules, 2011 is quoted as under:-

"11. Recognition to school (Section 18).-

(1) Every school, other than a school established, owned or controlled by the Central Government, State Government or local authority, established before the commencement of the Act shall make a self-declaration in Form-1 to the concerned Zila Shiksha Adhikari, who shall be the authorised officer, regarding its compliance or otherwise with the norms and standards specified in the Schedule and fulfilment of the following conditions, namely-

(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 building or 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 authorised by the State Government, or local authority;

(f) the school furnishes such reports and information as may be required by the Zila Shiksha Adhikari/Director of Education or any other authorised officer from time to time and complies with such instructions of the State Government/local authority as may be issued to secure the continued fulfilment of the condition of recognition or the removal of deficiencies in working of the school.

(2) Every self-declaration received in Form-I shall be placed by the Zila Shiksha Adhikari in public domain through website within fifteen days of its receipt.

(3) The Zila Shiksha Adhikari shall conduct on site inspection of such schools which claim in Form-I to fulfil the norms, standards and the conditions 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 Zila Shiksha Adhikari in public domain and schools found to be conforming to the norms, standards and the conditions shall be granted recognition by the Zila Shiksha Adhikari in Form II, within a period of 60 days from the date of inspection.

(5) The list of schools which do not conform to the norms, standards and conditions mentioned in sub-rule (1) shall be prepared and made public by the Zila Shiksha Adhikari through a notification mentioning the deficiencies and shall be displayed on website. Such schools may request the Zila Shiksha Adhikari for an on site inspection for grant of recognition anytime within the next two years.

(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 Central Government, State Government or local authority, established after the commencement of the Act shall conform to the norms, standards and conditions mentioned in sub-Rule (1) in order to qualify for recognition.

(8) Every Zila Shiksha Adhikari shall maintain a register of recognised schools and allot a number to every such school."

7. The Director of Education (Basic) U.P. has also issued circular dated 22.9.2023 to all District Basic Education Officers for the compliance of mandate of Act, 2009 and Rules, 2011 for ensuring that no school should be allowed to run without getting recognition.

8. It is clear from the above provisions as well as circular that it is a statutory mandate that no school (Basic or Junior High School) can be established or run after the commencement of the Act, 2009 without getting recognition from the concerned authority. Even then several schools are being run by the private persons or body of persons without getting proper recognition, thus playing with the future of children of this State.

9. Therefore, this Court is of the view that though the prayer in the present petition is confined to district Lakhimpur Kheri only, considering the importance of this issue, this Court is expanding the scope of this P.I.L. and directs the State authorities to submit reply **regarding running of unrecognized schools in the State of U.P. and the action taken by the State authorities against such schools** within a period of four weeks.

10. List this case on 24.7.2024.

(Arun Kumar Singh Deshwal,J) (Alok Mathur,J)

Order Date :- 25.6.2024

Vandana