

From

Director, Secondary Education, Haryana  
Panchkula.

To

1. All DEOs of the State.
2. All DEEOs of the State.

Memo No. 7/61-2004 S-1(2)

Dated: 3/9/16

**Subject:- SLP (Civil) No. 771 of 2013 arising out in LPA No. 1154 of 2012. Govt. Aided Private School Management Vs. Haryana State Adhyapak Sangh and others connected with SLP (C) No. 21533 of 2013 and SLP (C) No. 24467 of 2011.**

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Refer on the subject noted above.

It is brought to your kind notice that Initially a CWP No. 11686 of 2004 titled as Haryana State Adhyapak Sangh (Govt. Aided Private Schools) Vs. State of Haryana others was filed by the employees of Govt. Aided Schools praying therein for quashing order dated 14.07.2004 vide which the claim of the petitioners for grant of ACP scale to them was declined. The prayer further was to grant said benefit as admissible to the employees of the Govt. Schools w.e.f. 01.01.1996 with all consequential benefits.

The Hon'ble High Court was pleased to admit this writ petition and it was finally allowed in the terms of order dated 11.10.2010 passed in CWP No. 6220 of 2009-Haryana Private College Non-Teaching Employees Union (Regd.) Vs. State of Haryana and others.

Thereafter, another CWP No. 6220 of 2009 titled as Haryana Private College Non-Teaching Employees Union (Regd.) Vs. State of Haryana and others was filed by non-teaching employees of the Private Colleges in Haryana. The prayer in this writ petition was also for grant of ACP scheme to the non-teaching employees of the govt. aided private colleges. This writ petition was allowed by the Hon'ble High Court vide its order dated 10.11.2010. The operative part of the order is as under:-

***"In view of the above, this petition is allowed. Respondents are directed to extend the benefit of ACP in the terms of Haryana Civil Service (Assured Career Progression) Rules 1998 to the Non-Teaching employees of private recognized govt. aided schools within a period of six months from the date a certified copy of this order is served upon the competent authority."***

Thereafter, a CM No. 17272 of 2010 in CWP No. 11686 of 2004 was filed by the petitioner praying therein to decide their writ petition in the terms of order dated 10.11.2010 passed in CWP No. 6220 of 2009 as the issue involved is covered by the decision passed in this writ petition. The Hon'ble High Court was pleased to allow the CM and also to allow the CWP No. 11686 of 2004 (Adhyapak Sangh's case) vide order dated 02.02.2011 in the terms of CWP No. 6220 of 2009. The operative part of this order is as under:-

***"The fact that the issue is covered by decision referred to above is not disputed. In view of the above, the writ petition is allowed same terms".***

Feeling aggrieved by the order/judgement passed in CWP NO. 6220 of 2009 (Private College Employees' case), LPA No. 790 of 2011 in CWP No. 6220 of 2009 was filed by the Higher Education Department, Haryana which was dismissed by the Hon'ble Division Bench vide its order dated 12.05.2011.

On the other hand, LPA No. 1154 of 2011 was also filed by the School Education Department against the order dated 02.02.2011 passed in CWP No. 11686 of 2004 (Adhyapak Sangh's case). The LPA of the School Education Department was dismissed by the Hon'ble Division Bench vide its order dated 16.08.2012 in the terms of order passed in LPA No. 790 of 2011 of Higher Education Department.

Thereafter, SLP No. 24467 of 2011 was filed by the Higher Education Department against the order dated 12.05.2011 passed in LPA No. 790 of 2011. It was dismissed vide order dated 19.09.2011 by the Hon'ble Supreme Court.

In the meantime, some petitioners filed contempt petitions in the Hon'ble High Court for implementation of order passed in the aforesaid CWPs (6220 of 2009 and 11686 of 2004). The main contempt petition in this case was No. 645 of 2012 in CWP No. 11686 of 2004- Mange Ram Saini Vs. Surina Rajan and others. Due to the situation arisen at that time, the Department decided to implement the order passed by the Hon'ble High Court in aforesaid writ petitions. The matter was sent to Finance Department, Haryana for concurrence. After the concurrence FD, Haryana, the Department issued the instructions dated 29.08.2012 and 19.02.2013 for grant of ACP to the employees of Govt. Aided Schools subject to the outcome of the Review Petition No. D 8247 of 2012 filed by the Higher Education Department against the order dated 19.09.2011 passed by Hon'ble Supreme Court in SLP (civil) No. 24467 of 2011 (notification attached).

The Hon'ble Supreme Court vide order dated 12.03.2014 was pleased to allow the RA of the Higher Education, Haryana and passed the following order:-

**"Heard.**

**Review petition is allowed.**

**Order dated 19.06.2011 is recalled.**

**SLP (C) 24467 of 2011 is restored to its original number.**

**To be heard along with SLP (C) 771 of 2013 and 21533 of 2013.**

**Post for hearing after the service and pleadings are complete on a non-miscellaneous day."**

All the aforesaid SLPs were listed for hearing on 14.07.2016, on that day, the Hon'ble Supreme Court was pleased to allow SLPs filed by this Department, Higher Education Department and the managements of the aided Schools. The operative part of order is as under:-

**"We, accordingly, set aside the impugned judgements in all the appeals and remand the matters back to the learned Single Judge of the High Court for fresh decision in accordance with law.**

**The appellants shall apply for impleadment of all the managements who are likely to be affected any the order of the High Court. Needless to say that the impleaded parties shall be entitled to file their response before the matters are taken up for hearing**

**The appeals are, accordingly, allowed in above terms.**

**All the contentions of all the parties are kept open.**

**We may note that any action for recovery etc. shall be taken in accordance with the decision of the High Court.**

**We request the High Court to take up the matters as expeditiously as possible, preferably within one year from the date of receipt of the copy of this order.**

**Ordered accordingly".**

As per the aforesaid order, the Hon'ble Supreme Court has set aside all the orders of Hon'ble High Court whereby the employees of aided schools were held entitled for ACP and which were challenged in the aforesaid SLPs. All the matters have been remanded back and the question of recovery from the employees of aided schools has been left on the discretion of Hon'ble High Court. Meaning thereby, the orders of Hon'ble High Court are not in existence now.

In view of the above, you are directed not to grant any ACP's to the employees of Aided Schools in future. If any employee has been granted ACP after the passage of order dated 14.07.2016 of Hon'ble Supreme Court passed in SLPs, the same may be withdrawn with immediate effect.

*Plr*  
*5/9*

**Assistant Director A.S.  
for Director, Secondary Education  
Haryana, Panchkula.**

Endst No. Even

Dated, Panchkula the 5/9/16

A copy of above is forwarded to the following for information and necessary action:-

1. Director, Elementary Education, Haryana, Panchkula.
2. PA/DSE.
3. PA/Additional Director Admn.(1)
4. Chief Account Officer.

*Plr*  
*5/9*

**Assistant Director A.S.  
for Director, Secondary Education  
Haryana, Panchkula.**