



Gandhi & Co.

Advocates & Solicitors

Dilpreet Singh Gandhi
Advocate
Supreme Court of India
Punjab & Haryana High Court
Chandigarh
Mob.: 9872786402 | 9779166113

Ref. No. LN-343/C/2024

DATED: 27.11.2024

TO,

1. THE PRINCIPAL SECRETARY,
HOME AFFAIRS, JUSTICE & PUBLIC WORKS,
GOVERNMENT OF PUNJAB, PUNJAB CIVIL SECRETARIAT,
CHANDIGARH-160001.
2. THE CHIEF ENGINEER,
PUBLIC WORK DEPARTMENT (B & R), PWD B&R BRANCH,
NIRMAN BHAWAN, C- BLOCK MINI SECRETARIAT,
TEHSIL AND DISTRICT PATIALA-147001,
PUNJAB.
3. THE EXECUTIVE ENGINEER,
CONSTRUCTION DIVISION NO. 2 PWD B&R
BATHINDA-151004.
4. THE EXECUTIVE ENGINEER,
PROVINCIAL DIVISION PWD B&R
FARIDKOT-151204.
5. THE EXECUTIVE ENGINEER,
CONSTRUCTION DIVISION PWD B&R
SRI MUKTSAR SAHIB-152026.
6. THE EXECUTIVE ENGINEER,
CONSTRUCTION DIVISION, BHATEM BRANCH
FAZILKA-152123.
7. THE EXECUTIVE ENGINEER,
CONSTRUCTION DIVISION, BHATEM BRANCH
GIDDARBAHA-152101.



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8. THE EXECUTIVE ENGINEER,
NATIONAL HIGHWAY DIVISION,
DEPARTMENT OF PUBLIC CONSTRUCTION,
BHATEM BRANCH
ABOHAR-152116.

REFERENCE – THE LEGAL NOTICE DATED 31.05.2024

SUBJECT : CLARIFICATION TO LEGAL CUM CONTEMPT NOTICE TO NOT TO DEMAND ROAD ACCESS CHARGES FROM THE MEMEBRS OF OUR CLIENT ASSOCIATION FOR ISSUENCE OF BUILDING SAFETY CERTIFICATE WHERE THE DEMAND OF THE ROAD ACCESS CHARGES IS ALREADY CHALLENGED BEFORE HON'BLE HIGH COURT OF PUNJAB AND HARYANA, CHANDIGARH VIDE CWP NO. 28327/2022 WHICH IS PENDING FOR 17.12.2024 WHERE OUR CLIENT IS VERY MUCH READY TO FURNISH SURETY TO THE SATISFACTION, FOR ISSUANCE OF BUILDING SAFETY CERTIFICATE.

Sir,

This office has been engaged by the “Private Unaided School Association, Punjab (Regd.) (PUSA)” which is an association of private unaided schools which are affiliated with Central Board of Secondary Education (CBSE), Indian certificate of Secondary Education (ICSE) and Punjab School Education Board (PSEB) (herein referred as “our client”) to serve upon you the present clarification to the legal notice dated 31.05.2024 , on the following grounds:-

1. That our client namely “Private Unaided School Association, Punjab (Regd.) (PUSA)” is an association of private unaided schools which are affiliated with Central Board of Secondary Education (CBSE), Indian certificate of Secondary Education (ICSE) and Punjab School Education Board (PSEB) and are situated



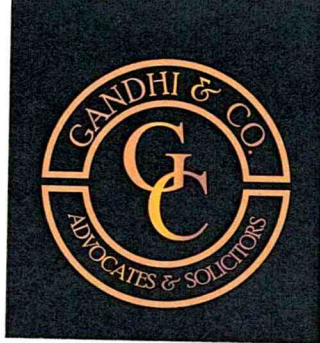
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in various parts of Punjab which is giving the best education at affordable prices to their students.

2. That the members of our client association are aggrieved in the hands of your department who has issued the letters dated 23.08.2022, 05.09.2022, 07.09.2022, 14.09.2022, 16.09.2022 & 29.09.2022 vide which the unnecessary/illegal demand of 'Road Access Fee' was raised on the basis of a letter of the year 2018 which itself is not clear and the said demand is totally illegal, without jurisdiction and arbitrary.
3. That it is not applicable to the members of our client association as these are run by the societies and are not allowed to run for profit nor the members of our client association are allowed to do any commercial activity in the schools, so these demand letters are issued by your department without even taking the legal advice as there is no law which supports these charges and this demand from the members of our client association is illegal and is an unnecessary financial burden on the members of our client association as well as on the students.
4. That it is pertinent to mention here that the said demand of the road access charges is already challenged before Hon'ble High Court of Punjab and Haryana, Chandigarh vide CWP No. 28327/2022 titled as '*Private Unaided School Association, Punjab (Regd.) through its State General Secretary Mohinder Singh V/S State of Punjab and Others*' which is pending for 17.12.2024
5. That the members of our client association are very much ready to furnish personal surety bond for the issuance or renewal of Building Safety Certificate and the surety can be given by furnishing a Personal bond or an affidavit but your department have started demanding the Fixed deposits/Bank guarantee in favour of your department and that too equivalent to 5 years of road access charges from the unaided private school like members of our client association



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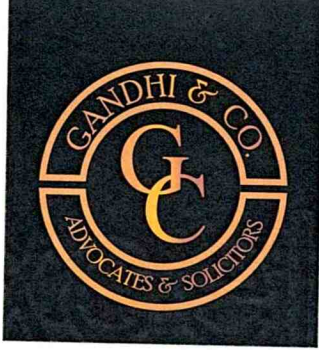
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which is highly unreasonable and unethical where you are very much aware of the fact that the said demand of road access is under challenge.

6. The Indian judiciary has recognized that a surety can be provided in the form of a personal bond, allowing release without the requirement of a financial or third-party surety. In this case the members of our client's association are unaided schools and a non-profit organization who have taken affiliation from the education department and huge constructed buildings are available at the site and every five years our client need a certificate from your department without which the affiliation cannot be extended. So, there is no chance that our client will not comply with the orders passed by Hon'ble High Court in the case which is pending before Hon'ble Court challenging the demand of road access and our client are very much ready to furnish their sureties in form of personal bond or surety by some other respectable individual. That this issue of surety is also been taken care by the Hon'ble Supreme Court in *Moti Ram v. State of Madhya Pradesh* (2023) rulings directed that courts prioritize equitable measures, allowing personal bonds without additional financial conditions when appropriate for justice and access to bail. Such judgments align with the constitutional principle of ensuring fairness in legal proceedings and the right to liberty for all citizens.
7. That this demand of surety, having financial implications, from the private unaided school like members of our client association will deprive them from utilizing the same funds for school development purposes. This is absolutely an unethical, unprofessional and contemptuous act on your part causing financial & mental agony to the members of our client association and same calls for an action against you under the Contempt of Court Act.

Through this legal notice, you are hereby directed to consider the claim of the members of our client association and take surety in form of personal bond for the issuance and renewal of the Building Safety Certificates in lieu of the order passed by



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the Hon'ble High Court of Punjab and Haryana, Chandigarh dated 13.09.2023 till the time these cases are pending before the Hon'ble High Court of Punjab and Haryana, Chandigarh, within 15 days of receiving the present notice failing which the members of our client association will be left with no other option but to approach appropriate court of law to avail other remedies available to the members of our client association under the Contempt of Court Act.

Note – Copy of the notice will be retained in this office for further action.

DILPREET SINGH GANDHI
ADVOCATE
FOR
GANDHI & CO