

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No.4594 of 2014 (O&M)
Date of decision:09.07.2014

Arundhati Dixit & others

...Petitioners

Versus

State of Haryana & others

.....Respondents

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Mr.Sameer Sachdeva, Advocate, for the petitioners.

Mr.Rajiv Prashad, DAG, Haryana, for respondents No.1 & 2.

Mr.Ajay Kaushik, Advocate, for respondents No.3 & 5.

Mr.Vinod S.Bhardwaj, Advocate
and Mr.Vipin Yadav, Advocate, for respondents No.38, 50, 65 & 72.

G.S.Sandhawal J.(Oral)

1. Challenge in the present writ petition has been laid to the result of the Haryana Talent Search Examination (for short, the 'NTSE'), Stage-I, Haryana, declared on 20.02.2014, on the ground that large number of students from one school and also from the same examination centre, had been declared successful in the said examination and as many as 53 students had taken the total 85 seats, from the Haryana State pool seats. The allegation in the writ petition was that the examination centre where the said students had given the examination was Saini Senior Secondary School, Narnaul, having Centre Code No.2221.

2. On filing of the written statement on behalf of respondent No.4, this Court noticed that 36 students were of Yaduvanshi Shiksha Niketan School, Mohindergarh and the other 10 students belonged to Yaduvanshi Shiksha Niketan School, Narnaul and thus, in total, 46 candidates had become successful

from the said institutes run by a common management. A direction was, thus, issued by this Court to respondent No.2 to look into the allegations made by the petitioners and submit a report. In pursuance of the said directions, report dated 02.05.2014 had been received by this Court, and the said report was made part of the record as Annexure P-13. Accordingly, the said students were also directed to be made aware of the pending litigation by respondent No.4 and so that they had liberty to object to the writ petition by way of filing written statement. A compliance affidavit has also been filed by the respondent No.4.

3. Vide a detailed order dated 09.05.2014, it was noticed that in the State of Haryana, 15737 students appeared and out of them, 99 candidates were declared successful. Counsel for the private-respondents has raised various objections that as many as 322 students of the said institute had given the said test and it is a reputed group of institutions and the writ petitioners have created unnecessary bias. Even today, similar written statement has been filed to demonstrate that the candidates who had been successful had also secured very high marks in the Matriculation examination held in March, 2014 and 10 students of Yaduvanshi Shiksha Niketan School, Narnaul had cleared NTSE, Stage I and that out of the 10 students, 8 secured 10/10 CGPA in the Matriculation Examination and it is also deposed in the written statement that the management had carved out a special section of meritorious students and special coaching was provided to them.

4. Placing reliance upon the report of respondent No.2, this Court had noticed that out of the 719 students who had appeared in Centre Code No.2221, 320 belonged to three schools of Yaduvanshi Shiksha Niketan, situated at Narnaul, Mahendergarh and Thanwar and 37 students of the said institutes were sitting only in 3 rooms, numbering, 15, 16 & 19. The students had been supplied question papers which were not in a jumbled manner but all the students had been

supplied the question papers in which questions were in the same sequence and would have further helped in facilitating the students who opted to use unfair means. In view of the adverse findings of the report of respondent No.2, this Court was of the opinion that such a large number of the students qualifying from particular school's was totally improper. Keeping in view the number of successful candidates who had qualified all over the State as out of the 99 students, 53 came only from Mahendergarh District whereas, other districts had only contributed candidates in the single digit, apart from Faridabad who had contributed 23 candidates and as per the break-up of centres given, there were 7 different centres and candidates were evenly spread out in Faridabad. Accordingly, this Court held that the successful candidates would be appearing in NTSE, Stage-II examination, which was scheduled to be held on 11.05.2014 and since it was not possible to direct re-examination at that stage, stay was granted for all over the country and parties were given liberty to file further pleadings, which have now been done.

5. Counsel for respondents No.3 & 5 filed an application for segregation of the examinations for the rest of the country and for the State of Haryana, in view of the stay granted. Accordingly, order dated 01.07.2014 was passed, whereby the State was asked as to whether it would be willing to conduct the re-examination in one centre or of the whole State. Necessary affidavit of Ms.Sneh Lata, Director, State Council of Educational Research & Training, Haryana, Gurgaon, dated 07.07.2014, has been filed. A perusal of the same would go on to show that the State Government has considered the issue in question and decided to re-conduct NTSE, Stage-I, for the entire State of Haryana on 24.08.2014. Thus, the State has given its readiness to conduct the said examinations on 24.08.2014.

6. Keeping in view all the cumulative factors, as discussed above,

which are, of course, seriously contested by the counsel for some of the private-respondents, this Court is of the opinion that the outstanding success of the students from a particular group of institute, appearing in one particular centre, cannot be ignored by this Court, at the instance of the writ petitioners who have brought this fact to the notice of this Court. An adverse report has also come of the manner in which the examination was conducted, though not only at the said centre but certain suggestions have also been given by respondent No.2 as to how the candidates should have been seated/paper should have been set, to avoid unfair means. The findings of the report read as under:

“1. The results of the qualified students have not been neither published in the newspaper nor placed on the website of the department on the date of declaration on 18.02.2014. Had this been done, no complaint by way of filing of writ petition or otherwise would have emerged. Further, non-mentioning of roll nos. in the results published on the website of SCERT on 20.02.2014 and that too without names of schools has resulted in casting aspersions upon SCERT authorities. Furthermore, instead of informing the students, District Education Officer, Narnaul has conveyed the results of qualified candidates of Yadhuvanshi Shiksha Niketan School on the same date i.e., 18.02.2014, which has resulted into publication of news item at the level of the said school on 19.02.2014 mentioning therein that 46 students have qualified from the two branches of the said school, i.e., Yadhuvanshi Shiksha Niketan located each in Mahendergarh and Narnaul town out of 99 (wrongly mentioned as 90 in the news item) total qualified students in the entire State. This has further created suspicion in the minds of students, especially petitioners, in view of the fact that a total of 719 students from various schools in Mahendergarh district having about 320 students from Yadhuvanshi Shiksha Niketan School of Mahendergarh and Narnaul including about 20 students from village Thanwas near Nagal Choudhary, have appeared in the said NTSE Stage I examination. Hence, it is clear that the results have been announced in a very non-transparent manner. The

same speaks of casual and irresponsible approach of SCERT authorities. However, no direct inference can be drawn regarding involvement of SCERT authorities, especially Director SCERT raising eyebrows upon its integrity.

2. Pattern of seating plan is quite defective in the entire State in general and examination centre of Saini Senior Secondary School, Narnaul (Mahendergarh) in particular. It was incumbent upon SCERT authorities to have ensured that no two students of the same school sit together both vertically as well as horizontally, especially in the case of examination centre of Mahendergarh, wherein 28 and 10 students were declared qualified from the same school i.e. Yadhuvanshi Shiksha Niketan during the academic year 2012-13 and 2011-12 respectively. Hence, SCERT authorities have failed to take notice of the gravity and sensitivity of the matter, as enunciated herein. Further, it was incumbent upon them to have changed the centre of examination in this particular school as well as in rest of Haryana. Furthermore, inviligilators and centre superintendents were required to be posted from outside the centre of examination.

3. Keeping in view the high stakes involved, SCERT authorities have failed creating systemic solution to mass-copying by generating several versions of the question paper by jumbling questions, so as to ensure avoiding copying and using unfair means.

Keeping in view the result of competitive examination at All India Level conducted by Union Public Service Commission and Staff Selection Commission and also admissions made in institution of repute i.e. AIMS and IITs it is beyond imagination statistically that 46 students out of 99 total qualified students in the entire State belong to one school having two branches each in the town of Mahendergarh and Narnaul, in view of the fact that 15737 students appeared in the said examination from the entire State, whereas about 300 candidates appeared from the said school located in Mahendergarh as well as Narnaul town. This is further fortified from the fact that in room number 15, 16 and 19 of centre situated in Saini Senior Secondary School, Narnaul (Mahendergarh), out of 48 students of the said Yadhuvanshi

Shiksha Niketan School of Mahendergarh and Narnaul two sitting therein, 37 students have qualified the said Stage I examination. This would be possible only, as a consequence of copying or using unfair means etc., in the absence of proper supervision at the level of SCERT authorities. Neither they have utilized the services of District Administration nor District Education Officer(s) and District Elementary Education Officer(s) were directed to sit in the examination centre, throughout the period of examination. It is obvious that vigil and control has been lacking completely, resulting into possibility of using unfair means or copying at the examination centre situated in Saini Senior Secondary School, Narnaul (Mahendergarh).”

7. The Apex Court in *Inderpreet Singh Kahlon & others Vs. State of Punjab & others (2006) 11 SCC 256* has held as under:

“If because of this ambiguous situation, where number of people who actually indulged in unfair means through abuse of gadgetry, gain access to employment, would it not be a travesty of justice vis a vis those who took the examination honestly but were left out of the process on account of the unholy march that the tainted candidates steals over an honest one without being detected? It is, thus, in the fitness of things that the decision holding the examination afresh be upheld so as to enable all the desirous candidates to partake the examination with a level playing field. Indeed the ones who have merit and substance need not fear if they have substantial confidence in their abilities. But certainly those with dubious credentials and conduct, who want to sneak in through illegitimate means would certainly have a reason to quake.”

8. This Court, in *Baljinder Singh Vs. State of Punjab 1994 (2) SCT 608*, while dealing with the issue of mass scale copying, held that where the success of centres is very high and the general body of students received and managed to secure success, the cancellation of the examination to maintain academic standards has to be kept in mind. Relevant observation read as under:

“11. The Universities and the School Boards are responsible for their standards and the conduct of examinations. The essence of the examinations is that the worth of every person is appraised without any assistance and manage to secure success in the neighbourhood of 100% when others at other centres are successful only at an average of much lower percentage it is obvious that the university or the Board must do something in the matter. It cannot hold a detailed quasi-judicial inquiry with a right to its alumni to plead and lead evidence etc. before the results are withheld or the examinations cancelled. If there is sufficient material on which it can be demonstrated that the Board/University was right in its conclusion that the examinations ought to be cancelled then academic standards require that the Board's or Universities' appreciation of the problem must be respected. It would not do for the Court to say that you should have examined all the candidates or even their representatives with a view to ascertaining whether they had received assistance or not. To do this would encourage indiscipline if not also perjury. In holding the above view, we are fortified by the ratio laid down in *The Bihar School Examination Board v. Subhas Chandra Sinha and others*, AIR 1970 Supreme Court 1269.”

9. The State, in principle, thus, has also decided to re-conduct the examination. Accordingly, the present writ petition is allowed. The result of the NTSE Stage-I, in the State of Haryana, is, accordingly, quashed. It is also to be noticed that this Court had directed that necessary intimation should be made in the Press so that the candidates may not be put to any inconvenience in the examination. Thus, all the 99 qualified candidates have sufficient knowledge of pendency of the present writ petition and as noticed above, compliance affidavit has also been filed by respondent No.4. The matter had been pending before this Court and no other respondents have filed application(s), agitating for their legal rights. Accordingly, a direction is given to the State and respondent No.4 to re-conduct the said examination on 24.08.2014, as per its stand and in view of the decision of the State, necessary intimation be made in the Press for all the concerned and affected students. It is also further directed that the suggestions

which have been made by respondent No.2 in the report regarding the sitting arrangement and having different sets of question papers, shall be kept in mind and students from one institution will be seated in such a manner that they do not constitute a majority in the same room, in order to ensure that there is no resorting to unfair means.

10. With the abovesaid directions, the present writ petition stands allowed. Since the NTSE, Stage-II examinations are held up at national level, it would also be appropriate that the result of the NTSE, Stage-I examination be declared within 2 weeks from 24.08.2014 and necessary steps be taken in furtherance thereof.

09.07.2014
sailesh

(G.S.SANDHAWALIA)
JUDGE

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