

(1997) 12 DEL CK 0003

In the Delhi High Court

Case No : Civil Writ Petition No. 2909 of 1997

Ankush Kansal

APPELLANT

Vs

C.B.S.E. and Another

RESPONDENT

Date of Decision : 18-12-1997

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1998) 3 AD 817 : (1998) 71 DLT 450 : (1998) 44 DRJ 360

Hon'ble Judges : Manmohan Sarin, J

Bench : Single Bench

Advocate : Mr. V.K. Makhija and Ms. Beena shaw Soni, for the Appellant; Mr. Anil Kumar and Ms. Avinish Ahlawat, for the Respondent

Judgement

Manmohan Sarin, J.—Petitioners, Ankush Kansal and Rahul Singhal, have filed this writ petition, aggrieved by the action of the respondent No. 1, Central Board of Secondary Education (hereinafter referred to as the "CBSE") for withholding their results of Class X examination.

2. Petitioners contend that they had taken admission with respondent No. 2, i.e. Government Adult Senior Secondary School, Krishna Nagar, Jheel Khuranja in the academic year 1996-97. Petitioners had applied for appearing in Class X examination conducted by the CBSE. After completion of all regular formalities and deposit of requisite fee, "admit cards" were issued to the petitioners and were assigned roll numbers.

3. Petitioners appeared in all the five papers, as per the schedule given in the admit cards and were hopeful of securing good marks in the examination and getting admission in a good school. To their utter dismay, the CBSE declared the result of Class X examination on 3.6.1997, but the result of the petitioners and some other students, who had appeared through respondent No. 2 school, were withheld. It is stated that out of nearly 108 students who appeared for the Class X examination of the CBSE through respondent No. 2 school, result of nearly 67 students were declared while the balance were withheld.

4. Petitioners claim that they are permanent residents of Hapur in Uttar Pradesh, but were residing in Delhi for the purposes of their study.

5. Notice to show cause had been issued in the writ petition on 24.7.1997. Reply has been filed by the respondent No. 1 CBSE and by the Education Officer on behalf of the respondent No. 2 School. An additional affidavit of Sh. Bahadur Singh, Vice-Principal, Government Adult Senior Secondary School, adopting the affidavit, of the Education Officer, has also been filed.

6. The contention of the respondents is that the petitioners did not go through a regular course of study. The Vice-Principal of respondent No. 2 school had colluded in recommending the admission forms of the petitioners, who were not eligible under the bye-laws of the CBSE. Petitioners had neither pursued a regular course of study nor were they students of any affiliated, recognised, school and were, Therefore, not eligible to take the Class X examination of the CBSE. The respondent No. 2 school, had been utilised by these petitioners without Pursuing a regular course of study to appear in the CBSE examination. Even otherwise, petitioners were not eligible to be admitted in respondent No. 2 school, which was an Adult Education School and meant for adult students, while the petitioners were minors.

7. During the course of the pendency of the writ petition and the arguments, learned Counsel for the Board had submitted that notices had been issued to the students, whose results had been withheld, including the petitioners, for appearance before a Committee constituted by the CBSE. As the, Counsel for the petitioners contend that the notices had not been received by the petitioners, with a view to give the petitioners an opportunity to show cause against the withholding of their results, petitioners were directed to be heard by the Committee on 2.9-1997. Petitioners themselves and through their guardians appeared before the Committee. The Court is informed that the Committee has taken a decision to cancel the results of students, including the petitioners, who were found to be ineligible. Affidavits in support of the said decision were also directed to be filed and have been filed.

8. Mr. Makhija, learned Counsel for the petitioners, submitted that petitioners were admitted after due scrutiny by the respondent Board of their applications forwarded by respondent No.2 school. The admission card, appearing at page 14 of the paper book, was meant for "regular students" and it is so specifically stated in the admit card. Further, it was urged that the petitioners had not suppressed anything and even the date of birth of the petitioners was mentioned as 6.4.1982 for petitioner Ankush Kansal and 27.1.1981 for petitioner Rahul Singhal. Petitioners were issued the admission card, knowing fully-well that they were minors and not adults. The name of the school was also duly mentioned as Government Adult Senior Secondary School, Krishna Nagar, Jheel Khuranja, Delhi. The argument being that once the respondent CBSE has issued admission cards, though the petitioners were not adults, they should not be made to suffer and lose a year for the alleged omissions by the respondent No. 2 school and

lapses of the CBSE. It is further stated that the affidavit filed on behalf of respondent No. 2 was that of the Education Officer and is based on the enquiry conducted by the Enquiry Officer. The School had not produced any records or taken a position that petitioners had not pursued the regular course of study.

9. Learned Counsel for the petitioners further submitted that the results of 41 students were not declared while those of 67 students have been declared. The argument being that results of certain students who were similarly placed as the petitioners have been declared. Petitioners allege discriminatory treatment, violative of Article 14 of the Constitution of India.

10. Respondent CBSE in its counter affidavit has clarified that out of 67 students whose results were declared, 51 students had failed while; 11 got compartments and only five students had passed. The said students were not those who had not pursued a regular course of study.

11. It is further argued by learned Counsel for the petitioners that with holding of the result was initially without giving any opportunity to show cause and even after an opportunity was provided under the directions of the Court, it was a mere formality which the Committee constituted by the CBSE went through in confirming its earlier decision. He submitted that no reliance should be placed; on the statement that had been got signed from the petitioners, who were minors and did not understand the import of the said statements, wherein they admitted that they were students of Geetanjali Public School, Hapur and Ch. Charan Singh Memorial School, Sahibabad.

12. Respondents have also produced relevant records of the respondent No. 2, school, including the admission and withdrawal register as well as the fee books.

13. I have perused the affidavits filed by the respondents together with the record produced before me. I find merit in the contention of the respondents that the petitioners, who were students of Geetanjali Public School, Hapur and Ch. Charan Singh Memorial School, Sahibabad, were not eligible for appearing in the Class X examination conducted by the CBSE. The said schools were neither affiliated with the Board nor were recognised by the CBSE. The petitioners claimed eligibility for taking the Class X examination as regular students of the Government Adult Sr. Secondary School, Jheel Khuranja, New Delhi. The respondents in their affidavits have pointed out a number of gross irregularities in the admission process of the petitioners to the respondent No. 2 school. Respondent No. 2 has set out the required conditions to be fulfilled for being admitted in such school, which read as follows:

1. Students must be above 18 years of age;
2. Students must be employed in Government, semi-Government undertaking;
3. There is one year break in studies; and
4. Student must be a regular student and attend the school.

Petitioners do not meet any of these conditions. Besides, in the instant case, it appears that during the period when examinations were being held at the Government Boys Senior Secondary School, Kailash Nagar, it was found that the students appearing for the CBSE examination from the Government Adult Senior Secondary School, Krishna Nagar, Jheel Khuranja, Delhi, were not adults and, in fact, they were students studying in Uttar Pradesh who had been sponsored by the respondent No. 2 school. Accordingly, an enquiry was ordered on 14.3.1997 conducted by the Education Officer, who found irregularities and malpractices inasmuch as students of U.P. schools have been permitted to take the examination and most of them were not adults. The students, including the petitioners, were sponsored by the school without their pursuing a regular course of study. The school simply lent its name. It was found that attendance register was not maintained and pages of the same blank. There was neither any checking at the end of the month nor did the Head of the school pass any orders for submitting the same for checking. As noted earlier, the said records, have been produced for perusal of the Court. It is noticed that pages of the attendance registers are blank. There is no evidence of any payment of school fee by the, petitioners or other students, whose results were allegedly withheld.

14. The record produced, in particular the blank register, absence of any evidence of payment of fee and the absence of any material to indicate that the students had pursued regular course of study, the respondents stand that petitioners had managed to have simply their candidature sponsored to CBSE through the respondent No. 2 school is well-founded. The decision of the Committee in this regard cannot be faulted with.

15. The statements signed by the petitioner students is in simple language and acknowledges that petitioners were students of Geetanjali Public School, Hapur and Ch. Charan Singh Memorial School, Sahibabad and that the respondent No. 2 school had got their forms filled. The allegation of the petitioners that the said statements were procured one and under duress and coercion also does not appear to be correct as it had been signed in the presence of a number of witnesses, including the Vice-Principal of the school.

16. The Directorate of Education has already initiated departmental action against the Vice-Principal and the concerned staff of respondent No. 2 school who are said to have indulged in malpractices and sponsored the case of the students, including petitioners without attending the regular course of study.

17. Although the respondents have denied the allegation of the petitioners that results of students similarly placed were declared, it may be noted that petitioners, who are themselves ineligible, cannot seek to invoke the discretionary relief under Article 226 of the Constitution of India, alleging discrimination on the allegation that results of some students similarly placed have been declared. Article 14 of the Constitution of India is not available to advance such a submission.

18. The writ petition has no merit and is liable to be dismissed and is dismissed, with no order as to costs.

Writ Petition dismissed.