

(1991) 03 MP CK 0038
In the Madhya Pradesh High Court
Case No : M.P. No. 486 of 1991

Ashotosh Higher Secondary School	Vs	APPELLANT
Government of Madhya Pradesh and Others		RESPONDENT

Date of Decision : 11-03-1991

Acts Referred:

Madhya Pradesh Board of Secondary Education Regulations, 1965 — Regulation 88

Citation : (1991) 36 MPLJ 823 : (1991) MPLJ 823

Hon'ble Judges : S.K. Dubey, J;K.K. Varma, J

Bench : Division Bench

Advocate : M.C. Jain, for the Appellant; M.G. Khedkar and R.D. Jain, for the Respondent

Final Decision : Allowed

Judgement

S.K. Dubey, J.

By this petition under Article 226 of the Constitution of India, the petitioner, a recognised institution, challenges the order (Annexures P/I and P/I-A), whereby the examination centre for holding High School and Higher Secondary Examinations has been changed from Government Middle School, Gormi to Old Collectorate, Bhind.

The material facts leading to this petition are that the petitioner is a recognised educational institution, run and managed by Ram Nath Shiksha Prasar Samiti, Gormi, the total strength of the students, inclusive of 200 girl students, is 2401, who come from nearabout 150 villages to take education in the School at Gormi; the Secretary, Board of Secondary Education, Bhopal, under Regulation 114 of the Board of Secondary Education (Madhya Pradesh) Regulations, 1965 (for short, the "Regulations"), after satisfying himself that the candidates who are to appear as examinees, have complied with all the requirements for admission to the High School and Higher Secondary Examinations of the Board of Secondary Education (for short, the "Board"), has furnished the candidates with the cards

of admission, in which the examination centre is shown as Government Middle School, Gormi. The petitioner distributed these admission cards on or before 25th February 1991 to all 2401 students. Suddenly, the petitioner received a telegraphic order (annexure P/I) dated 6-3-1991 with a confirmatory copy thereof (Annexure P/I-A), informing the Principal of the petitioner that the examination centre has been changed from Government Middle School, Gormi, to Old Collectorate, Bhind, which is, admittedly, about 40 to 45 km. away from Gormi, and asking the Principal to inform all the 2401 regular students about this change. The petitioner having received Annexures P/I and P/I-A, finding it difficult to inform all 2401 students about the change of centre within a short time, and the students having not made arrangements for their stay at Bhind for a period of 27 days from 11-3-1991 to 6-4-1991, during which the examinations are to be held, has, in the interest of the student, rushed to invoke the extraordinary jurisdiction of this Court.

The respondents Nos. 2 and 3 filed their reply to the application for ad interim writ and opposed the petition on the ground that the increase in the number of students from the year 1989 (which was 506 in 1989, 1018 in 1990 and 2401 in 1991) to 1991 alarmed the Board; on inquiry, it was revealed that the petitioner/institution is indulging in allowing the students to use unfair means; on information received by the Board from Collector, District Bhind, and in view of the past experience and the problem to maintain law and order, it was decided by the Board, not to hold the examinations at Government Middle School, Gormi. Vide Annexure R-I respondent No. 3 wrote to the Registrar of Examination that considering the increase in the number of students of the petitioner/institution, which according to the Regulations of the Board, cannot be more than 10% and sending the examination forms by the petitioner/institution from time to time till 29-1-1991 by registered A/D post, a suspicion arises about the conduct of the petitioner; though the principal of the petitioner was asked an explanation vide letter dated 21-12-1990, he has not replied to it so far. Hence, the respondent/Board considering the overall conduct of the petitioner/institution and the letter of the Collector, District Bhind, changed the centre, which is an administrative act and in the competence of the Board; the students can easily be informed by the petitioner/institution of the change of centre. Moreover, on the first day of the examinations the Board will make arrangements to take the students in buses to Bhind; thereafter, the students may make their own arrangements at Bhind either of stay or of their own transport. It was also stated in the reply that all examination material including question papers has been sent to the changed centre - Old Collectorate, Bhind, and now it is not possible to bring back those materials, as there is likelihood of leakage of secrecy of question papers which will affect the whole of the State. A rejoinder to this reply was filed by the petitioner, wherein the petitioner demonstrated that in Old Collectorate, Bhind there are only two small rooms, where 201 students cannot be accommodated. On the other hand, the other centre at Gormi has not been changed, and the centre which had been fixed for the examinees is not the one located in the

building of the petitioner but is a Government Middle School, where the Board with the help of the administration can make their own arrangements to remove the apprehension of using unfair means by the students. The respondent/State has supported the respondent/Board.

Shri M. C. Jain, learned counsel for the petitioner; Shri M. G. Khedkar, learned Additional Government Advocate for the State, and Shri R. D. Jain, learned counsel for the respondents Nos. 2 and 3 were heard.

Under Section 8 of the Madhya Pradesh Madhyamik Shiksha Adhiniyam, 1965 (for short, the "Adhiniyam"), besides exercising other powers enumerated in the section, the Board exercises the powers in respect of conduct of examinations based on courses and "to take all steps ancillary thereto, and to admit to its examinations, on conditions that may be prescribed to candidates, who have pursued the prescribed courses of instruction in institutions recognised by the Board, or privately. Chapter XI provides Recognition Committee and Recognition of institutions by the Board. Regulation 54 under the said chapter lays down that no educational institution which is not recognised by the Board, shall be permitted to present candidates for any examination conducted by the Board. Chapter XIII lays down the constitution of Examination Committee and its functions. One of the functions under sub-clause (e) of Regulation 88, of the Examination Committee is to fix centres of examinations. Regulation 106 to Regulation 127 of Chapter XVII deal with examinations of the Board. Regulation 114 lays down that the Secretary shall, after satisfying himself that a candidate has complied with all the requirements for admission to an examination of the Board, furnish the candidate with a card of admission, on presentation of which to the Superintendent of the Examination centre, the candidate shall be permitted to sit for the examination. There is a further provision in this Regulation in relation to private candidates. Admittedly, the Board has issued admission cards to all 2401 students after satisfying itself under Regulation 114, wherein the name of the centre has been mentioned so as to enable the students to appear in examinations at the relevant centre.

True, from the scheme of the Adhiniyam and the Regulations it is abundantly clear that it is the Board which is empowered to fix the centres so that the examinations in right manner are held. No legal right is conferred on any institution or even on the candidates to compel the Board to fix a particular centre for examination, as rightly contended by Shri R. D. Jain, learned counsel for respondents Nos. 2 and 3, placing reliance on a decision of the Allahabad High Court in *Dev Vidyalaya Inter College, Taruli Vs. Dr. C.M. Bhatia and Others*, On the other hand, if the Board fixes a school or institution as the Centre it is the obligation of such recognised institution to make available its building, etc., to the Board for the purpose of conducting examinations.

But, considering the peculiar facts and circumstances of the case, we are of the opinion that at the nick of the examinations the change of centre from Government Middle School, Gormi, to Old Collectorate Bhind, which is about 45

km. away from Gormi, was not proper. The centre fixed was not in the building of the petitioner/institution, but is owned by the Government. If there were complaints about the institution of allowing or using unfair means by the examinees, the Board ought to have taken action to derecognise the petitioner/institution. The Board has not taken any action against the petitioner on the increase, in the number of students. On the other hand, after satisfying itself the Board has issued admission cards. In any case, it would not be proper for us to say anything in this respect; the Board is free to take steps or action against the institution, if available to it, in accordance with law. But, for the present, we feel that the sudden change in the examination centre is certainly going to prejudice the students who are 2401 in number. The students come from 150 villages all around Gormi. If the students have to go from Gormi to Bhind to make arrangements for their stay and/or transportation for going up and down in such a short time, they would not be able to concentrate on their studies to prepare themselves for the examinations. Besides, it is not also possible for 2401 students to have accommodation at Bhind for 27 days, as Bhind being a small town cannot possibly accommodate such a huge number of students. Not only this, as contended by the learned counsel for the petitioner, the students who have no means to defray the expenses of lodging and boarding, may even forego their examinations. The Building at Gormi, where the examination centre was fixed, is of the Government, and the Board can very well arrange their own invigilators, and the administration can also make adequate arrangements to maintain law and order. It is stated that the building at Gormi is sufficient to accommodate the students appearing in the examinations. Even if it is a little insufficient, some arrangement may be made by the Board or the administration, as is evident from Annexure R/2, letter written by Collector, District Bhind suggesting to hold the examinations at the same place under a tent by providing tables, etc. It is not that the examinations are not being held at Gormi. The other centre of Gormi has not been changed. It is only the centre which has been fixed in the Government Middle School, Gormi, has been changed. The Board and the administration can make arrangements so that the law and order situation is maintained and unfair means are not used by the students. Reliance of Shri R. D. Jain, learned counsel for the Board, on an unreported Division Bench judgment of this Court in Kaushal Prasad v. Madhyamik Shiksha Mandal, M. P., Bhopal, M. P. No. 975/1986, decided on 21-3-1986, is of no help to the respondents, as the facts are distinguishable. In that case the centre which was changed, was having only two rooms, which were in a dilapidated condition and were not at all suitable for holding examinations; though the distance of the changed centre was only 15 km., the change of centre was already announced by publication in newspapers and by beat of drums; the number of the students was only 118 and the principal of the petitioner/school instigated the students not to go to that centre; therefore, in those circumstances the issuance of writ was refused. Besides, the Board allowed the students to appear in the paper in which they could not appear because of change of centre.

We are, therefore, of the view that the change of the centre in the peculiar facts and circumstances of the case was not proper, hence the respondents are directed to hold examinations at Gormi in its original centre-Government Middle School, Gormi so that the career of the students may not be ruined. As an apprehension was expressed by the Board against the petitioner/institution and its staff, it is upto the Board to allow or not to allow them to enter into the examination centre. It is also made clear that this order will not in any manner prejudice the right of the Board to proceed against the petitioner/institution for the alleged conduct and complaints received by the Board against the petitioner. The Board will also be at liberty to fix suitable centres in the coming sessions,

In the result, the petition is allowed, and the order change of examination centre (Annexures P/I and P/I-A) is quashed.

No costs.