
(2020) 08 RAJ CK 0027

In the Rajasthan High Court

Case No : Civil Writ Petition No. 27631 Of 2018

Ballaram Gurjar And Ors

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 07-08-2020

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2020) 08 RAJ CK 0027

Hon'ble Judges : Inderjeet Singh, J

Bench : Single Bench

Advocate : H.C. Godhwal, Anil Kumar Sharma

Final Decision : Dismissed

Judgement

Instant writ petition has been filed by the petitioners with the following prayers:-

It is, therefore, most respectfully prayed that your lordship may graciously be pleased to admit and allow this writ petition and -

Issue a writ order or direction in the nature thereof thereby direct the respondents authority to call for the computer chip or video recording for

showing actual mismanagement and adverse weather condition.

ii) Issue a writ order or direction in the nature thereof thereby direct the respondents to re arrange the race test (running) of the petitioners again and

consider the candidature for the appointment on the post of constable general under advertisement dated 25.05.2018, if they find eligible otherwise

iii) Issue any other writ order or direction, which this Hon'ble Court deems fit and proper may kindly be passed in favour of the petitioners.

iv) Cost of writ petition also may kindly be awarded in favour of the petitioners.

I have perused the record.

Counsel for the petitioners submits that the issue involved in this writ petition has already been considered and decided by the Division Bench of this

Court in the matter of Shravan Kumar Choudhary Vs. The State of Rajasthan & Ors., (D.B. Spl. App Wl. rit No.154/2019 decided on 22.05.2019),

wherein para Nos.7, 8, 9 & 10 have held as under:-

7. Quite apart from the ground on which the learned Single Judge dismissed the writ petition, i.e. delay, this Court is not inclined to interfere with the

selection process or the impugned order. When a complaint such as the present one with respect to less than ideal conditions or poor conditions in

which candidates are made to perform take up PET is confronted by the Court, it needs to carefully analyse the facts since intervention in judicial

review has larger repercussions which affect non-parties.

8. The state has placed material on record to suggest that whatever be the circumstances, rain moisture or ideal track conditions, of the total number

of candidates who participated on the basis of prevailing conditions, 45.42 qualified. The additional affidavit (concededly which is not part of the

present appeal record as it is a part of the record in D.B. Civil Appeal No.228/19) shows that the variation between the days like the one when the

appellant was made to participate and other days when there was no rain, was not so significant as to result in arbitrariness. The chart which is

produced alongwith the said additional affidavit shows that on an average on the best days - when weather conditions were normal, the number of

qualified candidates were in the range of 63-64%; the lowest in such range was about 25%. In between, there were days on which the conditions

were not ideal as in many venues it appeared to have rained. Having regard to all these factors, it cannot be said that the conditions under which the

present appellant was made to participate in the PET were so poor as to deny him a level playing field. What is a matter of record is that 579

candidates did participate of whom 263 were successful and did qualify. In these circumstances, unless the result shows an extremely startling result

where it can be discerned plainly that no candidate or a very insignificant number of candidates could qualify, the Courts should be very circumspect in

returning a finding of arbitrariness.

9. The judgment of the Allahabad High Court, in the opinion of the Court, is not applicable. It is primarily based on the reasoning that change in

weather conditions result in the change in the rules of the game i.e. introducing rules later after the commencement of the recruitment process. The

judgment of the Allahabad High Court, with respect, in the opinion of the court, does not correctly lay down the law.

10. One more consideration persuades this Court to decline relief. It is that out of the 579 who participate, some were successful and some were not.

Yet all of them did participate and accepted the conditions, as it were. Permitting the petitioner/ appellant or any other candidate thereafter to take a

re-test by directing the State to hold a fresh PET would itself be an unfair procedure as it would not only allow a few candidates who approach the

Court to have a second shot or attempt, or a second innings as it were, but also create an unfair advantage inasmuch as the conditions would be

entirely different and perhaps favorable to the candidate. This would result in two yardsticks, being injected into (one whereby all others accept

participate and are assessed under poor conditions, and the second whereby those who approach the Court are given a second chance, resulting in

their competing in favorable conditions), in the same selection process, which is inherently untenable and contrary to Article 14 and cannot be

permitted.

In that view of the matter, the present writ petition stands dismissed, in view of the judgment passed by the Division Bench of this Court in the matter

of Shravan Kumar Choudhary (supra).