

(1990) 11 RAJ CK 0036
In the Rajasthan High Court
Case No : Civil Writ Petition No. 5927 of 1990

Bharat Prakash Sharma

APPELLANT

Vs

Rajasthan Public Service Commission

RESPONDENT

Date of Decision : 24-11-1990

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1990) 2 WLN 218

Hon'ble Judges : M.R. Calla, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

M.R. Calla, J.—The petitioner is a practising advocate at Ajmer and he says that he has filed this writ petition in the name of public interest litigation for the welfare of the public of large. His case is that he is one of the applicants for the examination of the State and other Subordinate Service i.e. the Combined Competitive Examination to be conducted by the Rajasthan Public Service Commission on behalf of the Government of Rajasthan for recruitment to, the various services under the Rules of 1962. Petitioner's case is that the last date for submission of the application forms was 25th April, 1990 and initially the examinations were notified to be held on 9th September, 1990 and for that purpose information was, given to the petitioner on 16th August, 1990 i.e. a month prior to the date of the examination and the petitioner's counsel states that for this purpose the notice was given to all the candidates. This examination, which was scheduled to be held on 9th September 1990, was postponed as was informed by way of notice, which was published in the news papers. The petitioner has further stated that he was also intimated by postcard by the Commission which was posted on 19th October, 1990 that the examination which was fixed for 9th September, 1990 will now be held on 27th October, 1990 at 11 A.M; along with the details of the Center and Roll Numbers etc. The examination could not take place even on 27th October, 1990 due to countrywide

disturbances (Ramjanm bhoomi and the petitioner also states that in the State also there were serious disturbances because of the antireservation movement and Ramjanm Bhoomi issue and due to the atmosphere of uncertainty in the country, the examination was postponed for indefinite period. The petitioner's case is that he has been preparing for this examination since very beginning of the year, 1990 and due to postponement of the examination from time to time could not continue his preparation for the" said examination and now he came to know by a news item which was published in the Daily issue of Rajasthan Patrika dated 21-11-1990 (Wednesday) that this aforesaid examination has been fixed for 25th November, 1990 at 11 A.M. and the petitioner's counsel submits that this news item was published in the Jaipur issue of Rajasthan Patrika which he read. The petitioner submits that this news item was not authentic as a note was published on the top of the item that it is being published on the information of the official correspondent of the newspaper. This news item is also placed on record as Annex. 3. The petitioner has further stated in Para 10, that he contacted the office of the respondent on 21.11.90 with a representation just after reading the Public Service Commission that the examination has been fixed for 25th November, 1990 by way of notification and there is no chance of any postponement for the aforesaid examination. On these facts the petitioner seeks to challenge the holding of the examination on 25th November, 1990 and it has been further submitted that it is an examination in which the candidates from the various parts of the country also participate and they cannot be expected to have the knowledge of the holding of this examination on 25th November, 1990 at such a short notice which was issued on 20th November, 1990 only. It has been further argued that so far as the All India Radio and Doordarshan is concerned, the news was broadcast on the All India Radio from Jaipur only and not from the Delhi Station of the All India Radio and it has also been argued that on T.V. also this news was given, from Doordarshan Station of Jaipur and, therefore, the persons at distinct places could not even come to know of the date fixed for examination on 25th November, 1990. With reference to the news item which he has placed on record as Annex. 7 which is a news item published in the newspaper on 21-11-1990, it has been further argued that in Para 3 of this news item they have not notified the change of Center and the holders of the roll numbers have not been even made known the change of Center and the petitioner's counsel has particularly referred the name of one Shri Rucheer Sharma, who having gone through the aforesaid news item approached the counsel for the present petitioner Shri Prayeeh Balwada and told him that he had not been intimated by the R.P.S.C. about the change of the center and he had read this change of Center in this news item i.e. dated 20th November, 1990 only and Mr. Balwada has submitted that this writ petition he has filed by way of Public interest litigation in a representative capacity. Although his Center has not been changed but he represents the case of large number of other candidates who may not have been able to approach this Court by filing the writ petition. He further argued that there is roadways strike in the Rajasthan and still there is communal tension in the State. therefore, for the candidates who are

residing at the long distances or in the interior, it is not possible for them to collect the news from the newspaper for the purpose of examination and so also the Public Service Commission should not be allowed to convene this examination on 25th November, 1990. Mr. Khan who has entered caveat in this case has filed a reply and through this reply to the writ petition on behalf of the respondents, the whole case of the petitioner has been sought to be traversed.

It has been specifically stated in Para 9 that the notice was issued, earlier on 24th October, 1990 with regard to the holding of the examination on 25th November, 1990 and the whole petition has been filed Under the misconception as if the date of examination 25th November, 1990 was notified for the first-time on 20th November, 1990 only and an impression has been sought to be given to this Court that the notice is wholly insufficient and the concerned candidates cannot know of the date of examination at such a short notice. Mr. Balwada has submitted that the perusal of the notice dated 24th October, 1990 shows that it was a notice in which it was mentioned that there is possibility of holding the examination on 25th November 1990 and, therefore, it is no notice in the eye of law. Merely because in the notice dated 24th October 1990 it was mentioned that examination was likely to be held on 25th November, 1990, it, cannot be said that there was no sufficient notice. It is a matter of regret that in the whole writ petition no reference whatsoever has been made to the notice which was published by the R.P.S.C. on 24th October, 1990 and the whole writ petition was drafted under the misconception that the notice was published for the first time on 20th November, 1990 and a dark picture of the R.P.S.C. has been depicted in the writ petition. But for the appearance of Shri M.I. Khan as a caveat or, this Court could not even know while considering this writ petition at admission stage as to whether any notice dated 24th October, 1990 had, at all, been issued by the R.P.S.C. or not. Mr. Balwada has submitted that candidates who are living in other States could not even know about the date of examination to be 25th November 1990. Having gone through the averments in paras 9,10 and 11 of the reply filed by Shri Khan, I am more than convinced that the notice dated 24th October, 1990 had been duly published in various newspapers of the State of Rajasthan as well as the National Newspapers like Hindustan Times and Navbharat Times and the matters had also been sent to the various correspondents and, therefore, it cannot be believed that once the news items have been published in the Hindustan Times and Navbharat Times, yet the persons out of State have not been able to note the date of the examination to be 25th November, 1990. The further argument that the news was broadcast only from Jaipur Station on the All India Radio and the Doordarshan is no ground for interference for the simple reason that the press media itself is a very important media and the candidates who are preparing themselves for a State level examination are supposed to read such important newspapers. Therefore, even if there was no broadcasting on the All India Radio from the Delhi Station, it cannot be said that the notice has not been given. The argument that only notice dated 20th November, 1990 has been given is only an argument in despoire, in

such a case, when admittedly the whole country is facing a disturbing law and order situation and there are burning issues like ant reservation movement and Ramjanm Bhoomi and those persons who have to solve these issues are supposed to co-operate with the R.P.S.C. and the State Government and, therefore, it cannot be said that it Was only the duty of the R.P.S.C, but it was also the duty of the candidates who are desirous of appearing in that examination to be watchful as to when the examinations were going to be held. Therefore, it cannot be said that once the examination which was to take place care to know as to what happened about the next date of the examination. In such matters those Who arc actually interested would certainly keep track on of the dates about the examination and in my opinion, I do not consider that generally and by and large any candidate is likely suffer any prejudice on account of holding of examination on 25th November, 1990. The notice which was issued on 24th October, 1990 mentioning there in that the examination is likely to take place on 25th November, 1990 was absolutely in the fitness of the things because in the State of the things in which we are living, no one can state that the examination will be certainly held on 25th November, 1990 because all depends on the law and order situation which may be obtaining on the date of the examination. While I am dictating the order today on 24th November, 1990, in case there is any such disturbing law and order situation in the State on 25th November, 1990, the examinations may not be held even on 25th November, 1990, and, therefore, the R.P.S.C. was not, at all, at fault in mentioning in the notice dated 24th October, 1990 i.e. in the Press Note that the examination was likely to take place on 25th November, 1990 and this cannot give rise to an argument that there was no sufficient notice or that it was a vague notice. The notice, which is said to have been published 4 days back for the examinations for R.A.S. in the Rajasthan Palrika dated 20th November, 1990 was only by way of abound an Caution as was issued by the R.P.S.C. and it was wrong to say that this notice was issued for the particular purpose of notifying the change of Centers because the date of examination to be 25th November, 1990 itself. So far as the grievance raised regarding the change of Centre is concerned, the counsel for the petitioner has named one candidate only regarding whom there is change of center. The present petitioner is not facing any problem with regard to change of Centre and his Centre has not been changed. Shri Rucheer Sharma's case with regard to change of Centre, it is recorded that according to counsel for the petitioner he has already come to know of change of Centre and, therefore, it cannot be said that Shri Rucheer Sharma is going to suffer any prejudice. It may be observed that it is expected from the R.P.S.C. that before the commencement of the examination, the responsible officers will be deputed at such places where the change of Centers have been effected so that if candidates do not come to know with regard to change of Centres and reports for examination at the change of Centres and reports for examination at the carlier Centre, it should be shown by such responsible officer of the R.P.S.C. who would inform such candidal is about the correct Centre and would also give such candidates a margin of the loss of time which he may take to reach the changed centre. The counsel for the

petitioner has next argued that the candidates from rural areas will not be able to report of the roadways. Since, I have already held that the notice had been duly given way back on 24th October, 1990 and, there, from those candidates who are really sincere to participate in this examination would have taken care well in advance and it cannot be said that they are going to suffer any handicap on this ground. Moreover Mr. Khan has pointed out that although there is strike of the Roadways, the private buses in good number hired by the R.S.R.T.C. are being plied and the short term licenses have been given and, therefore, by and large it does not appear that any prejudice is going to be caused.

2. Be that as it may, I do not find that it is a case, in which the petitioner or for that purpose any of the candidates whom the petitioner seeks to represent are going to suffer any prejudice and I am more than convinced that in the State of the thing as they are existing in Rajasthan the R.P.S.C. has been fair enough and all possible care has been taken and they have taken all steps which they could have taken., There may be difference of degrees and still more effective measures could be taken but that by itself docs not make out a case for any interference under Article 226 of the Constitution, because I am fully satisfied that reasonable and sufficier noticing was there to the candidates who were to appear in this examination on 25th November, 1990. The writ petition has not merit and it is without any substance and the same is dismissed accordingly