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(2011) 02 AHC CK 0386

In the Allahabad High Court

Case No : C.M.W.P. No. 8807 of 2011

Committee of Management Ram Deo Hardeo Intermediate College Silhata Ballia and Another — APPELLANT

Vs

State of U.P. and Others — RESPONDENT

Date of Decision : 15-02-2011

Acts Referred:
Constitution of India, 1950 — Article 14, 226

Citation : (2011) 3 AWC 2254

Hon'ble Judges : Amreshwar Pratap Sahi, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Amreshwar Pratap Sahi, J.—The Petitioner-institution has come up praying for a mandamus directing the Respondents to allot an examination centre to the Petitioner -institution keeping in view the fact that the female students of the Petitioner -institution would be facing immense inconvenience by being sent 20 kms. away from the Petitioner -institution. He further submits that the Petitioner had been wrongly placed in the debarred list and after a judicial intervention of this Court, the Board itself has passed the order on 3.1.2011 whereby the institution has been removed from the debarment list. He, therefore, contends that by virtue of the aforesaid facts, the Petitioner is entitled to function as a centre for Board examination particularly as a self-centre for girl students of the Petitioner -institution. It is further submitted that the institution had been conducting examinations in the past and even otherwise the action of the Respondent Board is not in consonance with the Government Order/Executive instructions issued by the Board itself whereby certain guidelines have been framed for locating self-centres for female students. The contention in short is that the distance can be reduced within 10 kms. or within a shorter distance as per the guidelines framed by the Board and appropriate orders should be passed. The Petitioner contends that the action of the Respondents in not allotting the centre is, therefore, arbitrary and hit by Article 14 of the Constitution of India.

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2. Learned standing counsel submits that the examination schedule has already been finalized and any interference at this stage would upset the entire schedule and the Board would not be in a position to alter such decision. He further submits that the Petitioner -institution has been removed from the debarment list but that by itself does not create any right in favour of the Petitioner to claim allotment of centre. Learned standing counsel contends that all such matters have already been closed and the examinations are scheduled to be held w.e.f. 14.3.2011. In such a situation, it will not be appropriate to issue any direction for allotment of self-centre to the Petitioner -institution.

3. Having heard learned Counsel for the parties, it is evident that there is no statutory provision under which an institution can claim that it should function as self-centre for it''s female students. The guidelines have been framed by the Respondent -Board examination keeping in view the proximity of the institution, the local students and other factors. At the same time, the Board has also to manage the fixing of centres keeping in view the menace of unfair means particularly in self-centre examinations as had been reported in the previous year about which judgments are also reported relating to several districts in the State of Uttar Pradesh. Apart from this, the instructions, which have been issued by the Board, are only for their guidelines and to ensure that an appropriate arrangement is made in the interest of the examinees. Merely because an examinee is being sent to 10 to 20 kms. would not violate any fundamental right so as to allow the petition to be entertainable in the exercise of jurisdiction under Article 226 of the Constitution of India.

4. The aforesaid issue was dealt with in detail and the matter has been put to rest in the decision of the Division Bench in Special Appeal No. 118 of 2011 decided on 27.1.2011 with the following observations:

According to us, there is a difference between right and expectation. Definitely an institution has a right to impart education but right to be an examination centre cannot be an available right to the institution.

5. In view of the aforesaid position and the fact that the examinations are close on heels, there is no occasion to interfere at the instance of the Petitioner at this stage. As already observed hereinabove, the Petitioner has been removed from the debarment list and, therefore, this will not be an impediment in the passage of Board to allow the Petitioner to run as a centre in future examinations.

Accordingly, the writ petition is/ dismissed.

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