

(2003) 06 BOM CK 0091

In the Bombay High Court

Case No : Writ Petition No. 2428 of 2001

Devendra Lohokare and Others

APPELLANT

Vs

State of Maharashtra and Others

RESPONDENT

Date of Decision : 24-06-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 4 MhLj 963

Hon'ble Judges : S.T. Kharche, J;R.J. Kochar, J

Bench : Division Bench

Advocate : P.S. Khubalkar, for the Appellant; Kankale, A.G.P. for respondent Nos. 1, 4 and 5 and V.G. Bhamburkar, for the Respondent

Final Decision : Allowed

Judgement

R.J. Kochar, J.—The petitioners thirteen in number and young in age have approached this Court under Article 226 of the Constitution of India, for a simple direction to the respondent Nos. 1, 4 and 5 in particular to declare the result of the examination held in March-1999 of the second year of I.T.I. of 1996-98 Batch. They have also made prayer for directions to the respondents to pay to the petitioners damages - compensation for the loss suffered by them for non-declaration of the results.

2. In view of the importance of the subject to the young petitioners, who are anxious to begin their career of occupational trade after getting the results of the final examination of the I.T.I. courses, which they had entered in the year 1996 and which they completed in the year 1998 and they had appeared for the examination in March 1999. Unfortunately, they are waiting in queue before this Court with a hope for a favourable result from this Court in their petition from 18th October, 2000. In the normal course, we could have merely granted Rule and shelved the matter in the cupboard or in the heap of pending matters for final hearing. Instead of doing so, we deem it proper to hear the petition finally at the stage of admission itself. The learned counsel for the parties on both the

sides have fairly consented for the final hearing of the petition. We, therefore, grant Rule and make it returnable forthwith. The respondents obviously have waived service.

3. The respondent Nos. 1, 4 and 5 are the State and State authorities. The respondent Nos. 2 and 3 are the Vocational Institutions through which the petitioners had undergone the coaching for the I.T.I. Diploma course. The respondent Nos. 1, 4 and 5 have filed their affidavit-in-reply to contest the petition filed by the petitioners. The respondent Nos. 2 and 3 have not filed any reply, but they have naturally supported the petitioners as it was in their interest to do so. The State authorities have thrown the entire blame on the institution of the respondent Nos. 2 and 3. As according to them, they were guilty of admitting the students beyond the intake capacity in the respective trades which was without any permission of the respondent No. 1 and, therefore, according to the respondent No. 1, the petitioners were not eligible to appear for the examination held in March 1999. It is further averred in the affidavit that the students were allowed to appear in the examination on the condition that they will be allowed to appear after executing the bonds by them that the decision of the Government shall be final in the matter and that it will be binding on them. It is further averred by the affiant that the students who were allowed to appear in the examination of March 1999, the Government had decided not to declare the results and accordingly permission for declaration of the result was not granted by the respondent No. 1 to the concerned institution of respondent Nos. 2 and 3. It is further averred by the respondent No. 1 that the institution is wholly responsible for damages claimed by the petitioners. According to respondent No. 1, the institution was also not affiliated to N.C.V.T. for these extra units from D.G.E.T. from the Government of India and, therefore, there was no question of allowing the students to appear for All India Trade Test. The bonds executed by the students, who appeared for the examination are binding on them. They were admitted illegally and, therefore, they were not entitled to get the result of their examination declared.

4. We have very carefully considered the delicacy of the issue. The youth of this country after completing the education are wandering and roaming around for employment at the doors of the Employment Exchange offices and at the gates of the Factories and the doors of the offices. Indeed it is a privilege in this country to get a job and it is a heavenly bliss to be able to get a suitable job or an employment of one's choice. The desperate and frustrated unemployed educated young boys and girls are prepared to do any work and accept any job regardless of their degrees of graduation or post-graduation. What they want is simple bread and they do not even hope or yearn for butter on that bread. We may also mention that very often such type of unemployed educated young people go a stray also, helplessly and never voluntarily. The thirteen petitioners represent the educated unemployed youth of this country. We cannot lose sight of the fact that after completing their S.S.C., knowing very well that the certificate will not give them enough to get any job anywhere, they joined trade

courses of I.T.I. to acquire some skill to earn their livelihood by starting some small and sundry work such as carpentry, goldsmith and blacksmith etc. Their misfortune did not stop to chase them and they got in the institution which appears not to have taken due permission to exceed the intake capacity of admission. The students who approached such institutions obviously do not know that the institution did not have or does not have the required intake capacity to admit them and that they were being given admissions in absence of such permission. There is no indication anywhere for the students to know the intake capacity of such institution. If the students were told at that point of time, they would not have landed themselves in the troubled area of the institution of the respondent Nos. 2 and 3. They got themselves innocently entrapped with a very high hope that they would undergo trade course of the I.T.I. and they will appear for the examination and that thereafter they would be armed with the skill to jump in the life to do some vocational or occupational work to build their career. It is an admitted position that they were allowed to appear for the examination held in March-1999 though on alleged bonds taken from them at the crucial point before they could be allowed to enter into the examination hall that they will be bound by the decision of the Government in this respect. The helpless petitioners did sign dotted lines of the bonds presented before them without knowing or realizing that the said bonds will be used to seal their future forever.

5. The I.T.I. trade courses are merely occupational courses for very small and sundry people, who have no high ambition to acquire very specialized degree or post-graduation degree or super specialty which certainly affect the human lives in the medical courses. We can understand and appreciate the restrictions and regulations in such fields or streams of educational courses. The State can certainly act strictly in such courses. The State should be very liberal in the Vocational courses or trades which enable the boys and girls from low strata of the society to try to get some source of livelihood. They are not very ambitious to become rich millionaire. They want to earn their livelihood by hard physical work by honest means. According to us, in such small courses the State should be extremely liberal to enable the young boys and girls to get themselves armed with such skills so that they can self-employ themselves to earn the works of two meals for themselves and for their families. In fact the said authorities should encourage such students to reduce the burden on the other courses where there is keen competition and to reduce figure of unemployed youth in this country. We fail to understand how the State would get prejudice if the petitioners and lacs of youth like the petitioners get themselves trained in such trade courses to get themselves self-employed without crowding in the offices of the Employment Exchanges that would be in the interest of State itself as they will be solving the problem of unemployment. We, therefore, commend that the State should evolve such policy liberalized to such courses and relax restrictions so that the students are encouraged to undergo such simple I.T.I. courses for the purpose of becoming skilled or highly skilled technicians in the respective trades.

6. In the present case the petitioners were allowed to appear for the examination

and they have appeared for the examination. If the State has allowed them to appear for the examination, we fail to understand how the results can be withheld and for what purpose and for what beneficial purpose. We also fail to understand what loss would be caused to the State and State authorities, if the results of the petitioners are declared. We further fail to understand that how the State authorities would be prejudiced if the results are directed to be declared and what gainful advantage would be made to them. It is true that unscrupulous institutions would try to take undue advantage of the helplessness of the youth. The intake capacity of the institution is not known to the students who go for admission. The State machinery has to find out better means to curb such practices and to help and save the victims. We, therefore, direct the respondent Nos. 1, 4 and 5 to declare the results of the petitioners for the examination held in March 1999 in which the petitioners had appeared. The results of all the students, who appeared for the said examination will be declared by the State authorities regardless of the fact that they have not approached this Court and they have chosen to suffer silently and helplessly. The respondent Nos. 1, 4 and 5 shall declare the results on or before 15th July, 2003.

7. The respondent Nos. 1, 4 and 5 have relied on a unreported judgment of the Division Bench of this Court in Writ Petition No, 1613/2002, Rakesh Kumar s/o Garibdas Suryawanshi and Ors. v. The State of Maharashtra and Ors., The ratio of the said judgment is not at all applicable in the present case wherein the petitioners are only praying for declaration of their results and they are not praying for any further admission to any other course on the basis of said examination. In the matter before the Division Bench (D. D. Sinha and S. K. Shah, JJ.) the petitioners were seeking further admission on the basis of the examination they had undergone. In the present case, petitioners are not seeking any admission to any other course on the basis of the results of their I.T.I. courses. The aforesaid judgment, therefore, is of no assistance to the respondent Nos. 1, 4 and 5.

8. The petition therefore, succeeds. Rule is made absolute with no orders as to costs. Parties shall act on a copy of the judgment authenticated by the Sheristadar of this Court, C. C. expedited.