

(1983) 02 OHC CK 0008

In the Orissa High Court

Case No : O.J.C. No's. 2197 and 2213 of 1982

Kshirod Chandra Misra and Others

APPELLANT

Vs

Orissa Board of Secondary Education and Another

RESPONDENT

Date of Decision : 01-02-1983

Acts Referred:

Constitution of India, 1950 — Article 14

Orissa Secondary Education Act, 1953 — Section 2

Citation : AIR 1983 Ori 176 : (1983) 55 CLT 344

Hon'ble Judges : P.K. Mohanti, J;B.K. Behera, J

Bench : Division Bench

Advocate : S.C. Dash, for the Appellant; G. Rath, N.C. Panigrahi and B.K. Nayak, for the Respondent

Final Decision : Dismissed

Judgement

P.K. Mohanti, J.—These two writ petitions have been heard together and will be disposed of by this judgment since they raise common questions of law and fact.

2. The petitioner in O. J. C. Number 2213/82 is a student of Class X of Shri Jagannath High School in the district of Dhehkanal and the petitioners in O. J. C. No. 2197/82 are students of Class X of Alando High School in the district of Cuttack. The petitioners in both the writ petitions are due to appear at the Annual High School Certificate Examination, 1983, Candidates for this examination have been divided into two batches--senior and junior. According to the instructions issued by the Orissa Board of Secondary Education (hereinafter referred to as the "Board") the examination for the senior batch will be held in March, 1983 and the examination for the junior batch will be held in April, 1983. The petitioners have been included in the junior batch. They seek issuance of a writ of mandamus commanding the Board to admit them to the examination to be held in March, 1983.

3. According to the Government Resolution dated the 11th February, 1982, candidates passing the examination to be held in March, 1983 will be admitted to

the existing Intermediate Course to be followed by two years" Degree Course while the candidates passing the examination to be held in April, 1983 will be admitted to the Higher Secondary Course (plus 2 stage of the 10 Plus 2 plus 3 pattern of education) to be followed by three years" Degree Course. Thus, the candidates admitted to the Intermediate Course will be eligible to appear at the Degree Examination in 1987 while those admitted to the Higher Secondary Course will be eligible to appear at the Degree Examination in 1988. Grievance of the petitioners is that they will lose one year of their career if they are included in the junior batch and are admitted to the H. S. C. Examination to be held in April, 1983. Their contention is that the classification made by the Board is without any substantial basis or intelligible differentia and is hit by the principle of equality enshrined in Article 14 of the Constitution of India.

4. The stand taken by the Board is that the classification of the senior batch and junior batch of the students has been adopted by it pursuant to the decision of the Government of Orissa, Education and Youth Services Department, conveyed by their letter No. IE/NP-6/82 No. 5314/EYS. dated 11-2-1982. This decision was accepted by the Examination Committee of the Board in its meeting held on 9-9-1982 and it was decided that quasi-regular candidates, i. e., the candidates who have not completed four years of High School studies in a recognised High School will be included in the junior batch and will appear at the H. S. C. Examination to be held in April, 1983. The petitioners' contention that they are eligible to appear at the H. S. C. Examination to be held in March, 1983 in the senior batch cannot be accepted since they have not completed four years of High School studies in a recognised High School.

5. As indicated earlier, the sole relief claimed by the petitioners in both the writ applications is for issuance of a writ of mandamus commanding the Board to admit them to the Annual H. S. C. Examination to be held in March, 1983 with the students of the senior batch. The petitioners have not sought for quashing the Resolution of the State Government dated the 11th February, 1982 filed by the Board as Annexure-A/1 and the notification dated 8-10-1982 of the Board filed as Annexure-1 in O. J. C. No. 2213/82. Their main contention is that since they have completed four years of High School studies by the year 1982-83 they are eligible to appear at the H. S. C. Examination to be held in March, 1983 as per the Government Resolution in Annexure-A/1.

6. The State Government have decided to introduce the Higher Secondary Course (plus 2 stage of 10 plus 2 plus 3 pattern of education) from the academic session of 1983-84. If all the students passing the H. S. C. Examination in 1983 are admitted to plus 2 stage in the academic session of 1983-84 to be followed by three years" Degree Course, there will be no degree examination in the year 1986-87. This will affect University Examination and create several complications. It was, therefore, decided by the State Government that there will be two H. S. C. Examinations in 1982-83 -one in February-March and the other in April-May, 1983. The Board accepted the aforesaid policy decision of the State

Government and issued instructions in its notification (Annexure-1) dividing the candidates into two batches. According to this notification the following categories of candidates were included in the senior batch to appear at the Examination to be held in March, 1983: (a) Regular candidates with four years' schooling at the High School stage; (b) Old course candidates (1980) as private candidates who appeared previously and failed; (c) Ex-regular candidates who appeared and failed or having been admitted to the H. S. C. Examination and issued with admit cards but could not appear.

The following categories of candidates were included in the junior batch to appear in the H. S. C. Examination to be held in April, 1983 ; (a) Regular candidates with three years' schooling at High School stage; (b) External candidates who are presented through correspondence course of the Board, (c) Private candidates who will appear through test centres selected by the Board for the H. S. C. Examination, (d) Quasi regular candidates, i.e., candidates of Schools where Class VIII has been permitted to be opened by the Government; but Class X has not been recognised by the Board.

7. According to the above notification of the Board the petitioners come under the category (d) of the junior batch since they are students of the Schools which have not been recognised by the Board. Regulation No. 1 in Chapter IX of the Board's Regulations notified by the Government of Orissa in notification number 283-E dated 22-12-1955 provides that no School, which is not recognised by the Board shall be permitted to present candidates for any examination conducted by the Board. u/s 2(k) of the Orissa Secondary Education Act, 1953, "recognition" has been defined to mean recognition for the purpose of admission to the privileges of the Board including its examination. Thus, the basic object is to provide examination facilities to the students of the recognised Schools. The petitioners have not completed four years of High School studies in a recognised School. The decision of the Board in Annexure-1 is based on a reasonable classification inasmuch as it made a distinction between the students of the recognised Schools and those of the unrecognised Schools. The differential adopted for the classification is intelligible and relevant to the object of the statute. The decision of the Board does not, in our opinion, suffer from the vice of discrimination.

8. As previously stated the new pattern of education is being introduced for the first time this year. On the petitioners own showing, it will not be convenient for the Board to conduct one examination for three lakhs students. Moreover, if all the students passing the H. S. C. Examination in 1983 are admitted to plus 2 stage in the academic session 1983-84 to be followed by three years' Degree Course there will be no Degree Examination in the year 1986-87 and consequently there will be no admission to the Post-Graduate Classes in the academic year 1987-88. This will affect University education and create complications. The authorities have, therefore, to formulate with reasonable foresight a scheme of classification of candidates which would serve the purpose

of providing facilities for University education. Proper classification inspired by this consideration cannot be challenged on the ground of inequality violating Article 14. We do not think that the classification of candidates is so unreasonable as to render it arbitrary and without any substantial basis or intelligible differentia.

9. It is adumbrated under Article 14 of the Constitution that all equals must be treated alike. In the instant case there is no denial that the students of all the unrecognised Schools are not treated alike. That being the position, the constitutional validity does not arise.

10-11. There is therefore, no merit in the writ applications. Both the writ applications are dismissed; but without any order as to costs.

Behera, J.

12. I agree.

13. What Article 14 of the Constitution of India prohibits is class legislation and not reasonable classification. Care has been taken by the Board to reasonably classify persons and the differentia adopted by the Board is neither unreasonable nor arbitrary.