
(2013) 07 MP CK 0281
In the Madhya Pradesh High Court
Case No : WP.4625.2013

Ku. Sonam

APPELLANT

Vs

The Board of Secondary Education Bhopal and Another

RESPONDENT

Date of Decision : 09-07-2013

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2013) 07 MP CK 0281

Hon'ble Judges : U.C. Maheshwari, J;G.D. Saxena, J

Bench : Division Bench

Advocate : R.B.S. Tomar, for the Appellant; J.P. Mishra, Learned Counsel for Respondent No. 1 on Advance Copy, for the Respondent

Judgement

1. On perusing the petition, we have found that any of the pages of the petition has not been signed either by the petitioner or by her advocate. But we have found the seal of the concerning notary on each page regarding attestation of such signature. In this regard, on asking the petitioner's counsel on which he fairly submitted that due to bona fide mistake he could not sign the petition nor could inform before filing of the petition to the office clerk to take the signature of the petitioner. At this stage Shri P.C. Gupta, Advocate and Notary who is present in the Court was asked why he has put his signatures regarding attestation of the petitioner's or her advocate's signatures on which he also submits that such mistake had taken place due to oversight and prayed to pardon such mistake.

2. Considering the aforesaid prayer, counsel as well as notary are directed to take care in future in this regard and shall not repeat such mistake again.

3. With the permission of the Court, the petitioner's counsel has placed his signatures on every page of the petition. Same is certified accordingly. The Notary, Shri P.C. Gupta, with the aforesaid direction, is hereby discharged.

4. Heard on the question of admission.

5. The petitioner a student of second year of D.El.Ed. course and prosecuting her studies in the institution of respondent No. 2 has filed this petition under Article 226 of the Constitution of India for issuing the appropriate writ in the nature of mandamus or otherwise for the following reliefs:

7.1 That, the respondent no. 1 board kindly directed to fill up the examination form of D.El.Ed. Second Year examination form of the petitioner.

7.2 That, the respondent kindly directed to permit petitioner to participate in the D.El.Ed. second year examination which is going to be conducted w.e.f. 09.07.2013.

7.3 That, the respondent kindly further directed to declare the result of the petitioner of D.El.Ed. second year course.

7.4 That, other relief doing justice including cost be ordered.

6. Learned counsel for the petitioner after taking us through the averments of the petition as well as papers placed on record argued that the petitioner has appeared in the examination of Ist Year of D.El.Ed. course in the academic year 2011-12 and the result of the same was also declared vide Annexure P-1 according to which she has qualified to appear in the examination of second year of the aforesaid course. In continuation, he said that according to the information of the petitioner except her the examination forms of all other students of respondent No. 2 institution of the second year have been provided by the authorities of respondent No. 1. They have also submitted such forms but the form of the petitioner has not been sent till filling of this writ petition and in such premises she has been deprived of appearing in the alleged examination. He further said that in this regard her institution respondent no. 2 has sent a representation to respondent No. 1, Annexure P-2, on 26.06.2013 which could receive at the end of respondent no. 1 on 27.06.2013 but since then till filing of this petition neither the representation was considered nor has she been permitted to fill up the examination form. In such premises, learned counsel for the petitioner, prayed that if she is not permitted to appear in the examination which is scheduled today at 2:00 pm then inspite of passing first year her valuable one year shall be destroyed and prayed for admitting and allowing this petition.

7. On the other hand, Shri J.P. Mishra, learned standing counsel for respondent No. 1, initially prayed for adjournment to file return in the matter but in response of some query of the Court said that it is already 11 O'clock and therefore the formalities with respect to examination could not be completed within three hours so in any case respondent No. 1 is not in a position to permit the petitioner to appear in the examination which scheduled today at 02:00 pm. The submission of Shri Mishra, learned standing counsel appearing for respondent No. 1, appears to be reasonable but simultaneously the Court has to consider the valuable one year of the academic career of the petitioner, so in such premises without expressing any opinion on the merits or demerits of this petition, it is

disposed of with a direction to respondent No. 1 that if it is possible then consider the aforesaid representation of the petitioner/institution, Annexure P-2, decide the same and subject to outcome if the petitioner is found fit for appearance in the examination then subject to completion of the formalities within some time she be permitted to appear in the examination. It is made clear that this direction or the order shall not give any right to the petitioner to take any adverse action against respondent No. 1 or its authorities as the impugned order has been passed on mercy keeping in view the valuable one academic year of the petitioner.

8. Certified copy today. In addition to it, Reader is directed to supply the typed copy of this order immediately after signatures to the learned counsel to comply the aforesaid direction.