

(2015) 01 KAR CK 0509

In the Karnataka High Court

Case No : Writ Petition Nos. 57134 to 57136 of 2014 (EDN-EX)

Malleshwar Sikshana Trust and Others

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 07-01-2015

Acts Referred:

Citation : (2015) 3 KarLJ 459

Hon'ble Judges : B.V. Nagarathna, J

Bench : Single Bench

Advocate : I.G. Gachhinamath, for the Appellant; Ravi Varma Kumar, Advocate General and Y.H. Vijayakumar, Additional Government Advocate, Advocates for the Respondent

Final Decision : Dismissed

Judgement

B.V. Nagarathna, J.

1. Petitioners have assailed Condition No. 1 in circular dated 1-12-2014 bearing No. Ex. 3. KOS/Parikshe/December 14/2014-15 (Annexure-E) and sought a further direction to respondent 2-Secretary, Karnataka State Secondary Education Examination Board, Bangalore, to conduct examination at the centers specified in the earlier circular dated 6-8-2005, a copy of which is produced at Annexure-D. Initially, when the matter was listed before this Court, an interim order was passed on 12-12-2014, which reads as under:

"The condition imposed in the impugned notification dated 1-12-2014 insofar as shifting the examination center to the District Headquarters shall remain stayed for the present academic year".

Subsequently, on 19-12-2014, the interim order reads as under:

"Having heard the learned Advocate General, the matter requires to be resolved by permitting some more time for the students to adopt themselves to the new situation of change in the examination centers.

In that view, the learned Advocate General on consulting with the Officer present in Court would submit that to help the students in this manner, efforts would be made to postpone the examinations by a reasonable period.

Hence, this aspect may be finalised and be put on record so that the petitioners as well as the other students would be entitled of this.

To enable the same, list on 2-1-2015".

2. In fact, an application was filed on behalf of the State on 17-12-2014 seeking to vacate the interim order. That application has not been disposed, but nevertheless on 19-12-2014, an order extracted above was passed. On 2-1-2015, learned Advocate General appeared for the State submitted the reasons as to why the venue of the examinations under the Scheme "Karnataka Open School" (KOS) is being shifted to the District Headquarters from the Taluk Headquarters, where they were being held. It was stated that the reasons for shifting the venue of the examinations from Taluk headquarters to District Headquarters was in order to ensure that malpractices and impersonation of students would be reduced or minimised, if not completely eradicated. It was also contended that there are practical difficulties in conducting the examination at the Taluk centers, as in many centers, there are hardly a handful of students and for whom the centers would have to be identified resulting in high financial expenditure. It was stated that in order to bring more efficiency in conducting the examination and to ensure that malpractices and impersonation could be reduced and minimum staff is deployed, the venue of the examination has been shifted from Taluk Headquarters to District Headquarters by issuance of circular dated 1-12-2014. It was also stated that the examination was to be conducted from 24-12-2014 till 3-1-2015, but the examination has not been conducted on those days on account of the pendency of these writ petitions.

3. Learned Counsel for the petitioners contended that the object of conducting the examination at Taluk Headquarters was to enable the students particularly, the socially and economically weaker sections of society, backward and depressed classes and other persons who are not in a position to attend normal schooling to take the examination at the Taluk centers and brighten their prospects educationally and for the purpose of their career. He contended that by shifting the venue of the examination from the Taluk center to the District center would not in any way remove malpractices or impersonation as that would depend upon the efficiency of the persons who are conducting the examinations. Shifting of the examination centers from the Taluk Headquarters to the District Headquarters would not in any way ensure efficient conduct of the examinations. It was also contended that students would have practical difficulty in travelling from the remote villages to the District Headquarters and making arrangements for their stay in the District Headquarters in order to appear in the examination. He therefore contended that Condition No. 1 in Annexure-E may be struck down and the system of conducting the examination in the Taluk Headquarters as envisaged in the earlier circular dated 6-8-2005 (Annexure-D) be restored.

4. In response to these submissions, learned Additional Government Advocate appearing for the respondents-authority now states that in the Taluk Headquarters the examinations were conducted in the centers which were not Government Institutions, but in private schools, but the present arrangement is to conduct the examination only in Government Institutions or schools. He also stated that only Government staff would be deployed to invigilate in the examinations and all possible steps would be taken to ensure that the malpractices in conducting the examination would be reduced or minimised, if not completely removed and that strict vigilance would be maintained with regard to the malaise of copying and impersonation of students appearing in the examination. He also contended that the Deputy Director of Public Instructions would be overall in charge of the examinations in each District.

5. Having heard learned Counsel for the parties and on perusal of the material on record, it is noted that petitioners herein are running the Karnataka Open School Study centers, they are not students who are to take the ensuing examinations. However, they have assailed Condition No. 1 in Circular dated 1-12-2014 with regard to change of examination centers. No student has approached this Court assailing Condition No. 1 in the Circular dated 1-12-2014. Although this Court on 12-12-2014 had initially stayed the shifting of the examination center to the District Headquarters, subsequently, on the application filed by the State seeking to vacate that order, on 19-12-2014, permitted the shifting of the venue of the examination to District Headquarters, but stated that the students must be given sometime to adopt themselves to the new situation. Therefore, by order dated 19-12-2014 virtually this Court has accepted Condition No. 1 by which examinations centers at District Headquarters has been accepted by this Court. Although on 2-1-2015 on the suggestions of this Court to ameliorate the deficiencies in the conduct of examinations, learned Advocate General took time to get instructions in the matter as to whether the deficiencies in conducting the examinations could be removed by holding examinations at the Taluk centers, today, learned Additional Government Advocate states that for better co-ordination of the staff and for efficient vigilance and particularly, to bring more efficiency in conduct of the examinations, the venue of the examination centers have been shifted from Taluk Headquarters to District Headquarters.

6. It is noted that the Karnataka Open School system is for the purpose of enabling students who have not had normal schooling to appear in the SSLC Examination on completion of 15 years. In most of the cases, students are adults and wish to have SSLC qualification for their future prospects. However, having regard to the serious lapses in conducting the examination in Taluk level, which is candidly admitted by State Government namely, malpractices including copying and impersonation, the State Government has decided to shift the examination centers to the District Headquarters. This is for the first time the respondents have decided to conduct the examinations at the District Headquarters. The respondents-authorities must be given a "free play in the joints" in these matters. This Court cannot sit in judgment over the decision

taken by the respondents-authorities in the matter of conducting examination at District Headquarters particularly, when the decision is in the light of deficiencies which have been noticed by the respondents-authorities. In light of the circumstances, I do not find any infirmity in shifting the venue of the examinations from Taluk Headquarters to the District Headquarters. However having regard to the order dated 19-12-2014 passed by this Court and in order to enable the students to convince themselves that they would have to travel if necessary, to District Headquarters to appear in the examinations, it would be in the interest of the students to conduct the examinations in the month of February 2015. That apart the examinations would be conducted only in Government Institutions and not in private institutions. The Government Officers or officials would be deployed for the purpose of invigilation and to take other steps for efficient conduct of the examination.

7. It is needless to observe that the respondent-department would issue all necessary instructions to the concerned authorities including the Deputy Director of Public Instructions in each district. It is directed that the conditions referred to above would be strictly complied with by the respondents-authorities.

8. In the result, Condition No. 1 in Annexure-E would not call for any interference, as the Government Circular dated 1-12-2014 is a substitution of the earlier circular dated 6-8-2005. There is no merit in the writ petitions.

9. Writ petitions are dismissed. In view of the dismissal of writ petitions, I.A. No. 1 of 2014 for vacating stay would not survive for further consideration and is ordered to be filed.