
(1996) 02 RAJ CK 0010
In the Rajasthan High Court
Case No : Civil Writ Petition No. 6946 of 1992

Miss Kavita Vatsa

APPELLANT

Vs

The Principal, Govt. Sr. Higher Secondary School and Another

RESPONDENT

Date of Decision : 02-02-1996

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1996) 2 RLW 323 : (1996) 2 WLC 340 : (1996) 2 WLN 200

Hon'ble Judges : Y.R. Meena, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Y.R. Meena, J.—By this writ petition under Article 226 of the Constitution of India, the petitioner has prayed that letter dated 8.10.92 (Ann.4), holding the petitioner ineligible to appear in the Class XII Examination, in March, 1993, be quashed.

2. The petitioner passed her All India Secondary Examination, 1991 and thereafter got admission in Government Sr. Higher Secondary School, Khetri Nagar, District Jhunjhunu in XIth class. In XIth class also, she appeared and declared pass. When she filled the examination form of class XIIth, a letter (Ann.4) dated 8.10.92, has been received by her from Board of Secondary Education Rajasthan, Ajmer, whereby it is conveyed that petitioner is not eligible for appearing in the examinations as she secured less than 33% marks in Mathematics in Secondary Examinations, 1991. Thereafter, petitioner filed this writ petition. On stay application, the respondents were directed to allow the petitioner provisionally in examinations started from Feb. 25, 1993 and it was also made clear that petitioner will have no advantage on the basis of this direction at the time of final disposal of the petition. In pursuance of the direction of this Court, petitioner appeared in XIIth class and her result is yet to be declared.

3. Mr. Sanjay Singhmar, learned Counsel for the petitioner submits that when petitioner was declared pass in Secondary Examinations and admission was given to her in XIth class in Higher Secondary School, Khetri Nagar, Jhunjhunu, no facts were concealed at that time, therefore, for no fault on her part, the petitioner should not be deprived of her right to appear in XIIth class examinations. He placed reliance on the decision of this Court in case of Miss Shivani Kaur and Ors. v. Board of Secondary Education, Rajasthan, Ajmer and Ors. 1992(2) WLC 644.

4. Mr. Resham Bhargava and Mr. J.M. Saxena, learned Counsel for respondents have submitted that in the Regulation 5 of Chapter 19 of the Rajasthan Secondary Education Regulations, 1957 (for short, hereinafter, referred to as "the Regulations") clearly provides that if any candidate secures less than 33% marks, he will not be allowed on the next higher class. Admittedly, the petitioner secures only 21 marks in Mathematics in Secondary examinations held in 1991. They placed reliance on the decisions of this Court in Surendra Kumar v. Board of Secondary Education WLR 1994 Raj. 894; and Dharmendra Acharya v. The State of Rajasthan and Ors. 1992(2) WLC 202.

5. No doubt that in case of Miss Shivani Kaur (supra), a Single Bench of this Court has taken the view that once the student is admitted wrongly or rightly, the Board cannot deny the appearance of petitioner in examinations on higher class i.e. XIIth. But it is an admitted fact that petitioner secured only 21 marks in Mathematics in the examinations held by Central Board of Secondary Education and thereafter she was admitted in Higher Secondary School, Khetri Nagar, Jhunjhunu and only in October, 1992, the Board has sent a letter to the petitioner conveying that she is not eligible for appearing in XIIth Class examinations held by Board of Secondary Education, Rajasthan, Ajmer as she secured less than 33% marks in Mathematics. In the order on stay application, though the respondents were directed to allow her to appear in the examinations going to be held in February, 1993, but it was also made clear that her appearance in the examination will not confer any right on her. Regulation 5 of Chapter 19 of the Regulations is very clear on this fact that the student will not be allowed in higher class unless he/she secures minimum 33% marks in each subject. If by mistake of the Principal or the petitioner, ignoring the regulation, admission has been sought or given, how she can be allowed in the next higher class or to appear in Senior Secondary Examinations, contrary to the Regulation 5 of Chapter 19 of the Regulations.

6. In case of Dharmendra Acharya (supra), a Division Bench of this Court had considered similar issue and in para 8 held, "if a student, who fails to secure 33% marks in all the subjects including English in Secondary School Examination conducted by the Ajmer Board itself is not admitted to XIth Class and a student who failed to secure 33% marks in one or two subjects in his Secondary Examination conducted by the Board of any other Instruction or State recognised by the Board of Secondary Education, Rajasthan, Ajmer is admitted to XIth

Class, then such admission would certainly result in inequity to those students who have secured less than 33% marks in the secondary examination conducted by the Board of Secondary Education, Rajasthan itself. Thus, the balance of equity is not in favour of the petitioner appellant."

7. Considering the view, the Division Bench has taken the view that Prospectus/ Regulations of the Board of Secondary Education, Rajasthan, Ajmer do not permit a student to appear in the Senior Secondary Examination, even if he got his admission in XIth Class, unless he has secured 33% marks in all the six subjects including English.

8. This view has also been considered by a Division Bench of this Court in case of Surendra Kumar (*supra*), wherein, in para 4, it has been observed that appellant never complied with the letter dated 23.9.93 (Ann.3) for showing his eligibility, which was received by him on 5.10.93. It was also informed him vide letter dated 14.10.92 in response to his application dated 6.10.93 that he was not eligible as per rules and notification dated 17.6.92 (Ann.R-1) and dated 4.7.92 (Ann.R-2), therefore, his admission in 11th Class is of no avail and not entitled for any direction, and in para No. 5 of the said judgment, the view has been taken that it is well within its rights to declare the appellant not eligible to appear in Class XII examination on the reason that he has secured less than 33% marks in Class X in Mathematics subject.

9. The fact is not in dispute that petitioner has secured less than 33% marks in Mathematics and as per Regulation 5 of Chapter 19 of the Regulations, she is not eligible to appear in Senior Secondary Examination, and considering the view taken by the Division Bench of this Court in the aforesaid case, I find no merit in this petition. It is also made clear that at the initial stage in stay order mere appearance in Senior Secondary Examination on the direction of this Court, has not confer any right on the petitioner.

10. In the result the writ petition is dismissed.