
(1994) 08 RAJ CK 0013

In the Rajasthan High Court

Case No : Civil Writ Petition No. 5135 of 1993

Prem Adhar Gaur and Others

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 04-08-1994

Acts Referred:

Citation : (1994) 2 WLN 603

Hon'ble Judges : P.K. Palli, J

Bench : Single Bench

Judgement

P.K. Palli, J.—The case has a chequered history and this petition is the third attempt in the series seeking the desired relief. Non-coordination between the different wings of the State has led to not only confusion but have left the petitioners high and dry on the crossings. It is really unfortunate and sad state of affairs as the facts hereinafter detailed would reveal. The State and its functionaries have been playing with the career of the petitioners who are students and this has happened because of the absence of coordination between the various wings functioning in the irrespective fields. A total non application of mind, lack of thinking and coordination has resulted into a mess for which the respondents have to blame only themselves.

2. The petitioners and those mentioned in the shcedule-A annexed to the petition are similarly circumstanced. These persons not only pursued the studies together but also took up examination held by the Board of Secondary Education and therefore the prayer is that they too be granted same relief in this petition.

3. The Public Charitable Trust known as Sahara Educational Trust, Didwana (hereinafter referred to as Trust) was constituted for the purpose of running educational courses in the year 1988. Vide letter dated 18th July, 1989 (Annx. 1) the Government of India advised the State Governments to open their avenues for vocational education covered under the Apprenticeship Act. The Trust volunteered to provide such a training and applied to the State Council of Rajasthan seeking permission for such a course from the session 1989-90. It is

not disputed that the Government of India has granted approval for starting vocational course in four subjects, viz., (i) Cooperative; (ii) Library and Information Science; (iii) Pharmacy and (iv) Nursing. It was said that the State Government shall not provide any aid to the Trust and the Trust shall obtain the recognition from the Board of Secondary Education, Rajasthan, Ajmer. On 10th August, 1989, the Education Department wrote a letter to the Trust, that is Annexure 3 on record, desiring the Trust to start the courses and intimate by 30th August, 1989 and information be also sent to the Education Board, Ajmer. The Trust, after making proper arrangements admitted 120 students in Pharmacy and Nursing subjects, the petitioners and those mentioned in Schedule A are from amongst those 120 students.

4. On 5th August, 1989 the Board of Secondary Education, Rajasthan, Ajmer (hereinafter referred to as the Board) addressed a letter to the Officer on Special Duty, Education Department that it will take time to prepare the syllabus for the courses of Pharmacy and Nursing and the same shall be sent to the institutions as soon as the same is prepared. This letter is Annexure 4. This is again not disputed that the Government had granted permission to the Trust to start the courses for Pharmacy and Nursing. On 6th November, 1989 it was again reported that the syllabus had not been prepared by the Board. The courses should not be started and if started the information be given to the Government. This is Annx.

5. On 16th November, 1989 a request was made by the Government to the Board to prepare the syllabus so that courses could be started from 1990-91. This letter is Annexure 6.

5. The Trust had already commenced the courses but on 17.1.90 the permission granted to the Trust was revoked and permission to start courses in three other subjects was allowed. These three subjects were, (i) Hospital House Keeper; (ii) Health Sanitary Inspector and (iii) Multi Rehabilitation Works. On 11th May, 1990 permission granted for Nursing and Pharmacy Courses for 1990-91 vide letter dated 16th November, 1989 was cancelled. This is Annx. 7. S.B. Civil Writ Petition No. 2326/90 was filed by the Trust challenging the orders dated 27th March, 1990 and 11th May, 1990. In this petition the Board was also a party. During the pendency of that petition permission was granted to continue the courses of Health Sanitary Inspector, Medical Laboratory Technician and Hospital House Keeper courses instead of Nursing and Pharmacy and the Government agreed to this proposal vide order dated 21st November, 1990 (Annx.8). It was in this situation the above said writ petition was withdrawn by the Trust. The Trust thereafter started courses in these three subjects. The petitioners continued their studies, took the written examination conducted by the Board, the petitioners did not get through the examination held in 1992. Applications were again invited for admission to academic session 1991-92. In the meantime, the Addl. Director. Vocational Education informed the Trust that permission had been granted only for the session 1990-91 and not 1991-92 and, therefore, the admission granted by the Trust was against the rules. This communication is dated 12th November, 1991 (Annx. 12). The communication was in pursuance of

the order of the Addl. Director dated 14th October, 1991 and this was challenged in S.B. Civil Writ Petition No. 6109/91. Stay order was granted in that case.

6. It is said in the petition that under similar circumstances permission had been granted to Government Chopra Senior Higher Secondary School for domestic electric appliances, repairs of radio, T.V. etc. and on 25th October, 1989 permission granted was amended and the courses were ordered to be discontinued and instead permission was granted for commencing courses in Pharmacy and Nursing. This is Annexure 13. This school admitted 107 candidates and while the session was going on, vide letter dated 21st March, 1990, the Addl. Director, Vocational Education wrote to the Superintendents of the Hospitals desiring to make available the facilities for obtaining the clinical experience to the students undergoing Nursing Course. This letter is Annx. 14. On 27th March, 1990, the Special Officer, Education, wrote to the Director, Primary and Secondary, Education that the permission granted for Nursing and Pharmacy classes for the year 1989-90 is cancelled with immediate effect and option is given to those already admitted to pursue any of the three courses, i.e. Hospital House Keeper, Health Sanitary Inspector and Multi Rehabilitation Works. This is Annexure 15.

7. 65 students out of 107 referred to above gave the option, rest did not opt. Yet the studies continued in Medical Laboratory Technician (for short MLT) Course. 65 of the students who had completed the academic course but had not completed practical work were granted permission to take training in Laboratory Technicians Training Course in the medical college. The 16 left out students approached this Court by S.B. Civil Writ Petition No. 6178/92-Prem Prakash v. State of Rajasthan. These 16 left out students were ordered to be given training in the Laboratory Technicians Training Course that is evident from Annexure 19 dated 21.7.93. Another writ petition is also stated to be pending being S.B. Civil Writ Petition No. 4124/92- Jagdish Lal v. State, where 9 candidates were admitted to the training course of Laboratory Technician Training, have prayed that they be allowed to complete training.

8. The petitioners have thus made out a case that they are identically placed as those 65 candidates whose admission was granted and as well as those 16 students who were admitted to the courses later Under Orders of this Court and their admission was regularised by the Government and thus the petitioners and those mentioned in Schedule A have been discriminated against and thus the reasons in the instant case and of those students are the same. A valuable period of their career has been spent in pursuing the course, and lot of money has been spent. They also took the examination as conducted by the Board but could not succeed and thus the prayer in the petition is for seeking an order or direction to grant admission to the petitioners in the MLT Course in any of the hospitals of the State for purposes of completing their courses and training.

9. In their reply, the respondents have stated that the petitioners no. 1, 2, 3 and 5 appeared in the MLT examination held by the Board in theory as well as in

practical but they have been declared unsuccessful and it is said that petitioner no. 4 did not avail the opportunity of appearing in the examination and is thus not entitled to maintain this petition. A reference has been made in the reply to SB Civil Writ Petitions No. 6111/91, 5888/92 and 6109/91 and these petitions have been decided on 27th October, 1993 and in the decision given by this Court it was concluded that it is for the Board to see whether the petitioner institution in that case had necessary equipment to impart this education or not. The judgement has been placed in Annx. R. /5 and the Sahara Trust was one of the petitioners. It is further said that a committee was appointed to find out and report whether the Trust had the necessary equipments and it was reported that the Trust was found to have not conducted the practical and theory in accordance with the norms and on 17.1.1994 (Annx. R/7), the Trust was required to complete all the formalities and requirements so that the directions given by this Court could be complied with. It is further said that the Board did not recognize the Trust and the sanction had been granted to the Trust vide Annx. 2 on the fulfillment of certain conditions and since these conditions have been breached and the Trust admitted 120 students in the course whereas they were not permitted to grant admission to more than 25 students. The Trust also did not secure recognition from the Board and that the trained staff had not been deputed for the teaching purpose. The Government thus cancelled the course of Nursing and Pharmacy for the session 1990-91 and all the students of the like institutions who had filed writ petition, a compromise had been arrived at and the students were allowed to undertake MLT Course and the Nursing and Pharmacy Course was abolished in all the institutions.

10. In the reply it has been tried to be projected that the students from the Chopra Senior Higher Secondary School stood on a different footing as they were admitted to the course held by Medical and Health Department and 16 students who were admitted later were also dissimilar to the petitioners and that Govt. Chopra Senior Higher Secondary School was a Government recognized institution and that the other institutions were private and had not been recognized by the Board and thus it is stated that there was no discrimination. The learned Counsel for the petitioners have forcefully argued that the petitioners were identically situated and were placed in the same set of circumstances as was the case in respect of the Govt. Chopra Senior Higher Secondary School, petitioners have been put to great hardship ever since 1989 and they have been asked time and again to opt for one course or the other for no fault of theirs and the Government and Board have been playing with their career and now they are left in the mid-way. Learned Counsel appearing for the State argues that there is no similarity between the petitioners and those 65 students and 16 students who were later admitted and regularised. The petitioners have failed and thus would not seek any relief and that in identical circumstances in respect of the same matter, the writ petitions filed by the Trust and Student Union i.e. S.B. Civil Writ Petitions No. 6111/91, 5888/92 and 6109/91 have been dismissed vide order dated 27th October, 1993 and this Court left it to the Board to see whether the

students have been given full training in this Course or not and if the Board finds that these institutions were not fully equipped, necessary directions be made and thereafter due recognition be given as well as holding of the examination. I have carefully gone through this decision and with utmost respect, I am of the opinion that this decision does not come in conflict with the case of the petitioners and those mentioned in the Schedule.

11. After having heard the learned Counsel appearing for the parties at length and after perusal of the record, I find that it was during pendency of the S.B. Civil Writ Petition No. 2326/90 that on 21st August, 1990 the Board had stated that they are in a position to furnish a course of Medical Lab. Technician for the year 1991 and the petitioners in that petition may apply before the Government for requisite permission and on such permission being granted, the course will be permitted by the Board. It was in this situation that the Government granted permission for the opening of the said course and the petitioners after forgoing their claim for Nursing and Pharmacy took to MLT Course. The petitioners likewise appeared in the examination held by the Board in 1992 but failed. This would not mean that they are to be left in mid-way and again now be not permitted to complete the course and take up the examination. This is further an admitted case that the Government had sanctioned the commencement of the Course and because of no-availability of the syllabus from the Board the matter went up and down and ultimately the petitioners were required to opt for the MLT Course. It has further come on record that the Government even regularised the admission of the 16 students who had been left behind. The petitioners having been granted permission and having taken the examination, the respondents cannot, now, turn-round and plead that since the institutions had not the requisite paraphernalia for imparting the training they cannot be considered further. It is also wrong to say that the permission had been given only for a particular session. The sanction to start the vocational course was never revoked and it was only changed to the other course because of the inability on the part of the Board to provide curriculum for Nursing and Pharmacy. Option of three courses instead was provided. The course thus had to be changed because of the non-ability on the part of the Board and the students carrying out of the courses were accommodated against the course of MLT including the petitioners. It also cannot be said that the Government which had permitted the sanction to start these vocational courses has revoked the same. To say that these courses were to be continued for a particular session only would be too unfair. The institutions have been rendering broad-based services in the educational fields without taking any aid from the Government. Once the course has been sanctioned and candidates permitted to undergo the process in the changed situation and the Board having accepted them to examination, it would be too late in the day to contend that there was no necessary equipments with these institutions to impart the education. As these institutions have imparted necessary education to the students in the course in consonance with the prospectus, there should be no difficulty for the Board in accepting these students for conducting examination

and they are also entitled to be given same treatment which was given to the candidates of the Govt. Chopra Senior Higher Secondary School.

12. This petition is thus allowed with a direction to the respondents to give to the petitioners the same treatment in respect of training as well as in the conduct of the examination which was given to 65 students earlier and then to the remaining 16 students later. The arrangements for the training course may be made by the respondents in the hospitals where such facilities are available and the Board shall conduct their examination as per rules so that the petitioners and those mentioned in the Schedule-A complete their course and training as well as qualify their examination. I am taking this view in peculiar situation and circumstances of this case since the petitioners have been crying for their rights ever since the year 1989, and a considerable period has been lost in the process. Any observation or decision made in this case shall not be a precedent in any other case since the view is being taken on account of extreme hardship which the petitioners have undergone as narrated above in this order. There will be no order as to costs.