

(2001) 07 JH CK 0085
In the Jharkhand High Court
Case No : CWJC No. 1043 of 2001

Principal, Zila School, Ranchi

APPELLANT

Vs

Jharkhand Secondary School Examination Board

RESPONDENT

Date of Decision : 12-07-2001

Acts Referred:

Bihar School Examination Board Regulations, 1964 — Article 3

Citation : (2001) 07 JH CK 0085

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : M.S. Anwar, Rajesh Kumar and Afaque Ahmad, for the Appellant;
Kalyan Roy and Ashok Kumar, for the Respondent

Final Decision : Allowed

Judgement

M.Y. Eqbal, J.—The petitioner who is the Principal of Ranchi Zial School, has moved this Court on behalf of 82 students challenging the notification dated 17.2.2001 published in the Ranchi Express whereby information was given that 82 students were debarred from appearing in the Secondary Examination. 2001.

2. Petitioner's case is that those 82 students filled up their examination forms and deposited examination fee and also submitted all the required documents and certificates. The respondent-Examination Board issued registration certificate to all those 82 students. Surprisingly two days before the examination was scheduled to be held, the impugned notification was published in the newspaper debarring those students from appearing in the examination.

3. This Court considering the urgency of the matter, parsed interim order on 18.3.2001 directing the respondents to permit the students to appear in the examination. However, it was ordered that the result of these students shall not be declared without the permission of the Court.

4. A counter affidavit has been filed by the respondent-Jharkhand Secondary School Examination Board (shortly "the Board"). It is stated that the Minister,

Human Resources Development Department, Jharkhand sent instruction to the Administrator of the Board that the number of private students appearing in the examination from S.K.A. High School, Hazaribagh, in comparison to the regular students, are very high and, as such, the matter be examined. The Administrator of the Board has also been getting confidential information that from several schools including Zila School, Ranchi, large number of students are being allowed to participate in the ensuing examination in an irregular manner. The Administrator constituted a committee under the Chairmanship of Additional Secretary of the Board consisting of District Education Officer and one Magistrate nominated by the Deputy Commissioner and directed to enquire into the matter. The Committee submitted its report wherein it was stated that many students were not found eligible for appearing in the examination. The respondents have also referred to relevant provisions of the Bihar School Examination Board Act, 1952 in the Counter affidavit. They have also referred the regulations made thereunder and stated that the authority of the Board has power to debar any student from appearing in the examination.

5. From perusal of the impugned notification it appears that all these 82 students have been debarred from appearing in the examination for want of registration. The Principal of the school filed a supplementary affidavit stating that the requirement of Article 3 of Chapter IV of the Bihar School Examination Board Regulation, 1964 was fully complied with inasmuch as a residential certificate of the State for one year, character certificate, affidavit in support of age and other documents were submitted through the school along with the prescribed application forms for registration. The Board after verifying all the documents issued registration certificate to all the students appearing from the said school. It is stated that the Board has taken decision illegally, arbitrarily and without application of mind which is evident from the fact that the name of the same persons have been mentioned twice in the said notification. It is further stated that on the date of inquiry by the Committee the petitioner reached the place of inquiry along with all the documents. Although the District Education Officer was present but two other members of the Committee did not reach the office. The petitioner was informed that the residential certificate and the character certificates have already been submitted along with registration forms. The petitioner also produced the answer-books of the sent-up candidates including 80 students and also the tabulation register and the marks obtained by the candidates, it is alleged that the Additional Secretary did not verify the records. The petitioner repeatedly asked the members of the Committee to verify the records and issue admit cards but nothing was done.

6. In another supplementary affidavit filed by the Principal of the school, it is stated that in order to satisfy the authority he again deposited photocopies of the registration receipts and all other documents before the Administrator of the Board for publication of result but nothing was done.

7. As noticed above, the impugned notification clearly shows that the students of

the petitioner-school were debarred from appearing in the examination on the ground that these students were not registered with the Board and the registration certificate was not issued. The stand of the Board is that on receipt of the complaint a committee was constituted to enquire as to whether the candidates appearing as private students of the school are eligible to appear in the examination, and they fulfil all the requirements. Admittedly, before debarring the students from appearing in the examination, no opportunity was given to them to satisfy the Enquiry Committee that they fulfil all the requirements and are eligible to appear in the examination. The Committee only issued notices to the Principal of the concerned school to appear along with all the documents and papers. It is specifically stated by the Principal of the school, in para 9 of the supplementary affidavit that the Committee fixed 6.3.2001 for enquiry and directed the Principal to appear along with all the documents. Though 6.3.2001 was holiday on account of Id-Ul-Zoha (Bakrid), the Principal reached the office of the District Education Officer but all the three members were not present and the petitioner submitted all the documents along with registration forms. The petitioner also produced the answer books of the sent-up candidates including these 80 students and also the tabulation register of the marks obtained by the candidates. Instead of making verification of those documents the Principal of the school was directed to come to the office on the next date. It is further alleged that the Additional Secretary, did not verify the records in his possession in presence of the Principal of the school. All of a sudden the impugned notification was issued, these facts stated in para 9 of the supplementary affidavit have not been specifically controverted in reply filed by the respondents-Board. Although the students of the school were debarred from appearing in the examination for want of registration only but in the affidavit the respondent-Board has supplemented it by taking some more grounds for debarring these students to appear in the examination. From the affidavit filed by the Principal of the school and the documents annexed therewith, prima facie, it is clear that these students were fulfilling all the requirements for making them eligible for appearing in the examination but the respondent-Board took a decision to debar these students from taking part in the examination without giving reasonable opportunity of hearing to these students muchless the Principal of the school, who has been consistently making uncontroverted statements on oath that these students fulfil all the requirements provided in the Act and the Regulations. The impugned notification in my opinion, therefore, suffers from serious illegality. The action of the respondent- Board in debarring these students of the petitioner-school from appearing in the examination is wholly unjustified.

8. This writ application is, therefore, allowed. Since, by interim order dated 18.3.2001 all these students have appeared in the examination, the respondent-Board is directed to declare the result of these students as expeditiously as possible and within a period of two weeks from today.

9. Writ application allowed.