

(2002) 02 AHC CK 0056
In the Allahabad High Court
Case No : C.M.W.P. No. 7486 of 2002

Ram Prakash Dewakar

APPELLANT

Vs

District Inspector of Schools and Others

RESPONDENT

Date of Decision : 20-02-2002

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2002) 2 AWC 995

Hon'ble Judges : R.R. Yadav, J

Bench : Single Bench

Advocate : K.B. Dixit, for the Appellant;

Final Decision : Allowed

Judgement

R.R. Yadav, J.—Heard.

2. Sri P. K. Jain is appointed as amicus curiae to assist the Court, who pointed out that a representation made by the petitioner is pending before the District Level Committee in this regard.

3. It is revealed from the averments made in the writ petition that in petitioner's institution, there are 500 students in the High School and Intermediate classes out of which 116 girls students are nominated for appearing in the forthcoming examination which is going to be held from 18th March. 2002. It is also averred in paragraph 5 of the writ petition that when the petitioner came to know through newspaper dated 19.10.2001 that petitioner's institution has not been made a centre for Board Examination, he sent a representation to respondent No. 1 on 27.10.2001 and the same was received also in the office of respondent No. 1. In the aforesaid representation dated 27.10.2001, the petitioner stated that report of the Examination Authority was found satisfactory about the examination conducted in the petitioner's Institution pertaining to year 2001. It is averred in the writ petition that petitioner's institution is on Kishani-Karhal road but by some political pressure, petitioner's Institution has not been made a

centre for Board Examination, 2002. It is also averred in paragraph 12 of the writ petition that petitioner's institution is about 21 Kms. away from Tehsil, Karhal and their nearer colleges, namely, Ghatam Dev Inter College, Bhanpur, Patara and Anr. Sri Nehru Smarak Inter College, Saman are also not in the list of examination centres.

4. Learned standing counsel brought to my notice departmental instructions, a copy whereof is produced by one office bearer in the office of Madhyamik Shiksha Parishad, U. P. Allahabad. From perusal of departmental instructions, it is clear that girls are allotted Nehru Smarak Inter College, Saman and boys are allotted Examination Centre at Narsingh Inter College, Karhal.

5. Learned amicus curiae, Sri P. K. Jain vehemently urged before me that in accordance to para 2 of the policy decision, every attempt is to be made to accommodate girls in same Institution that is called "self centre".

6. A close scrutiny of the material available on record throws a flood of light that for determination of examination centres for High School and Intermediate Examinations, 2001-2002, the State Government has taken a policy decision creating District Level Committees and Regional Level Committees. It is also evident from perusal of material available on record and averments made in the writ petition that District Level Committees are to send proposals to the Regional Level Committees consisting of Divisional Commissioner, Joint Director of Education, Mandaliya Sahayak Nidesak (Basic) and all the District Inspectors of Schools of a Region for allotment of Examination Centres for purposes of smooth conduct of Examinations of High School and Intermediate for the Session 2001-2002. It is pertinent to observe that policy decision taken by the State Government contemplates a District Level Committee, whose member-Secretary is District Inspector of Schools. The allotment of Centres is to be made by Regional Level Committees on the recommendation of District Level Committees. It is inferable from the policy decision taken by the State Government that after approval of Centres by Regional Level Committees, the proposed Centres are to be published in two newspapers by the District Inspector of Schools and its copies are to be affixed on the Notice Board in the Office of District Inspector of Schools.

7. It is evident from perusal of policy decision of the State Government that guidelines specifically provide that Centres for examination of the students of High School and Intermediate should be as far as possible within a distance of about 8 Kms. According to policy decision, every attempt is to be made to accommodate girls students in same institution, that is called "self centres" for girls students.

8. It is contended by learned counsel for the petitioner that examinations are scheduled to commence from 18th March, 2002, but the District Level Committee is not deciding petitioner's representation in pursuance to policy decision taken by the State Government.

9. Learned standing counsel appearing on behalf of respondents stated that due to Assembly Elections, it would not be possible for the Regional Level Committee to decide the representation of the petitioners up till 26.2.2002. It is urged by learned standing counsel that disputed question relating to distance of Examination Centres and creation of self centre, based on the principle of as far as possible, cannot be undergone in writ jurisdiction.

10. In rejoinder, it is urged by learned counsel for petitioner that assuming for argument sake that distance of Examination Centres and creation of self centre for girls students, based on principle of, as far as possible, cannot be gone into under writ jurisdiction, yet the representation made by the petitioner relating to controversy involved in the present writ petition deserves to be decided by Regional Level Committee, which is aware of ground realities expeditiously on or before 28.2.2002 by speaking order after giving an opportunity of being heard to the petitioner. It is submitted by learned counsel for petitioner that decision taken by Regional Level Committee is amenable to writ jurisdiction, therefore, petitioner is entitled to know the reasons which persuaded Regional Level Committee refusing to allot the petitioner's institution as an Examination Centre for forthcoming High School and Intermediate Examination, 2001-2002.

11. Looking into totality of the facts and circumstances of the present case, and also taking into account the aforesaid rival contentions raised at the Bar. I am of the view that Regional Level Committee is to decide the controversy in the light of policy decision taken by the State Government refusing to allot the petitioner's institution as an Examination Centre for forthcoming High School and Intermediate Examination, 2001-2002 or as to why the self centre for girls students is not created in the same institution from where they filled in the Forms for examination.

12. It is well to remember that policy decisions are taken by the State Government to maintain uniformity among the Institutions in passing orders and such policy decisions are taken to give equal protection to all in similar circumstances. The District Level Committees and the Regional Level Committees are not authorised to ignore the policy decision taken by the State Government while refusing to allot any Educational Institution as Examination Centre for forthcoming High School and Intermediate Examination Centre, 2001-2002.

13. It is to be imbibed that fairness is a prime test of administration. The powers given to District Level Committees and Regional Level Committees cannot be allowed to be abused, but it is to be exercised properly pursuant to the policy decision taken by the State Government. It is known to all of us that Article 14 of the Constitution prohibits arbitrariness. If the District Level Committees and Regional Level Committees are permitted to ignore the policy decision taken by the State Government, it would lead to arbitrariness, which is anathema to the constitutional provisions enshrined under Article 14 of the Constitution. Such refusal tantamount arbitrariness in exercise of powers by District Level Committees and Regional Level Committees.

14. In the facts and circumstances of the present case, the petitioner is entitled to know as to why the students of petitioner's institution are compelled to travel more than 8 Kms. causing untold miseries and inconvenience to them as stated in writ petition and as to why the girls students are being deprived of to have self centre from where they have filled in their Examination Forms as contemplated in the policy decision taken by the State Government.

15. What has been discussed herein above, the District Inspector of Schools is hereby directed to forward the representation made by the petitioner to the Regional Level Committee within two days from the date of receipt of a certified copy of this order and the Regional Level Committee is mandated to decide the said representation of the petitioner on or before 1.3.2002 in pursuance of the policy decision taken by the State Government in this regard after giving an opportunity of hearing to the petitioner by a speaking order.

16. With the aforesaid observations, the instant writ petition is finally disposed of at admission stage.

17. Before parting with the judgment, I record my appreciation to learned amicus curiae for assisting the Court.