

(2013) 07 RAJ CK 0170

In the Rajasthan High Court

Case No : Civil (PIL) Writ Petition No. 10696 of 2013

Shri Shamsuddin

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 03-07-2013

Acts Referred:

Citation : (2013) 07 RAJ CK 0170

Hon'ble Judges : Amitava Roy, C.J.;Veerendr Singh Siradhana, J

Bench : Division Bench

Advocate : Vikramjit Banerjee, for the Appellant;

Judgement

Amitava Roy, C.J.—Heard Mr. Vikramjit Banerjee, learned counsel for the petitioner. For the order proposed to be passed, it is not felt necessary to issue formal notice to the respondents.

2. The petitioner has introduced himself to be a citizen of the country devoted to the field of education for over two decades and also the President, Managing Committee of the Madarsa Faqrudin Ali Ahmed, Zone-35, Pratap Nagar. The instant petition has been filed by him to initiate a public interest litigation for providing laptops to students who are studying in Madarsas recognized by the Madarsa Board at Upper Primary School Level. It has been prayed as well that the benefit of the notification under challenge be accorded to the students of the minority community studying in the recognized Madarsas of the State.

3. The pleaded averments in short, seek to project that in the year 2012, the Rajiv Gandhi Vidhyarthi Digital Yojana was launched as a State Flagship Programme whereunder, laptops were to be provided to students of Classes X & XII on display of merit in the examination conducted by the Board of Secondary Education as well as to the first rank holders in Class VIII in all 35,819 upper primary and higher schools. Reference has been made to the Rajasthan Transparency in Public Procurement Act, 2012 (referred to hereafter as "the Act") regulating public procurement with the objective of ensuring-transparency,

fairness, equal treatment to bidders, promoting competition, enhancing efficiency & economy and safeguarding integrity in the process relatable thereto. That the productive use of a computer is contingent, amongst others, on the factum of regular repairs of physical parts and repairs of bugs, which affect the software of programs, has been underlined. The petitioner has stated that on 21.12.2012, tender for inviting bids from the qualified bidders for providing computers was issued for supply of 1,12,000 laptops as per the delivery schedule, referred to therein. The NIT also detailed the stipulations governing the process. While the exercise so initiated was pending, on 6.3.2013, the State of Rajasthan in its budget for the year 2013-2014 mooted a proposal under the Rajiv Gandhi Vidhyarthi Digital Yojana to provide Rs. 6,000/- to students securing ranks 2 to 11 in Class VIII, in lieu of providing computers to them. The scheme was further limited to the students of government schools. While contending that the confinement of the benefit of the scheme only to the students of government schools excluding, amongst others, private institutions including Madarsas, is patently discriminatory, thereby denying the actual, needy and meritorious students belonging to the economically backward sections of the society, the petitioner has asserted that the decision of distributing Rs. 6,000/- purportedly for the purchase of Tablet/PC is not only in circumvention of the Act, but also is a well calculated initiative to gain political mileage qua the forthcoming State Assembly Elections. Referring to the impugned notification dated 30.4.2013 giving effect to this scheme of distribution of cash amounting to Rs. 6,000/-, the petitioner has alleged that it is per se an attempt on the part of the State respondents to further the election prospects of the government in power by using this seemingly beneficial move as a camouflage. That the scheme is a fraud and is an anathema to the assurance of spreading computer literacy and reducing digital divide, has been asserted.

4. Following reliefs have been prayed for:-

- a. Quash the Notification numbered Shivira/Prar./Shashik/AB/Laptop/Budget Announcement/13-14 dated 30.4.2013 issued by the State of Rajasthan or the benefit of said notification be also given to the students of minority studying in Madarsas at the level of Upper Primary School.
- b. Stay the disbursal of the amounts under the scheme.
- c. Stay the encashment of cheques issued under the scheme.
- d. Direct the Government of Rajasthan to follow the method of procuring laptops and distribution of the same to those who are going to be the beneficiaries of the new scheme in accordance with the Rajasthan Transparency in Public Procurement Act, 2012.
- e. Direct the Government of Rajasthan to extend the benefit of the old scheme which is presently ongoing to the new beneficiaries under the new scheme.
- f. Direct immediate investigation by a Special Team outside the control of the

State Government headed by a High Court Judge under the supervision of this Hon''ble Court.

g. Pass any other order(s) or direction as this Hon''ble Court may deem fit and proper under the facts and circumstances of the case.

5. The learned counsel for the petitioner has assiduously reiterated the above pleaded assertions and has argued that the earlier laudable scheme had been replaced by a collateral one, thus warranting interference by this court.

6. We have cautiously considered the materials on record as well as the arguments advanced.

7. The impugned notification, to start with, not only conveys a policy decision as contained therein, it prima facie does not overlap and efface the declarations in the letter dated 3.12.2012 of the Chief Accounts Officer, Secondary Education, Bikaner addressed to all District Education Officers, Secondary Education communicating the government decision of distributing laptops under the Rajiv Gandhi Vidhyarthi Digital Yojana to the first rank holders of Class VIII and other merit rank holders of Classes X & XII, as referred to therein. The impugned notification dated 30.4.2013 relates to the meritorious students of Class VIII of the government schools under the secondary education holding ranks 2 to 11, for whom under the same scheme for the year 2013-2014, a decision has been taken to distribute Tablet(s)/PC(s). This notification discloses that to enable the purchase, every such student would be awarded Rs. 6,000/- through account payee cheque. While at the first instance, the decision to limit this benefit to the students of the government schools, is also a matter in the domain of policy of the executive, the challenge thereof on the ground that it is only a political gimmick, is ex facie inferential. The imputation that this initiative of distributing Rs. 6,000/- per student is only a camouflage to further the election prospects of the government in power, also does not weigh with us in absence of any overwhelming material to demonstrate the same. The relief prayed for in clause (a) is self contradictory, and according to us, strikes at the tenability of its assailment on the ground of want of bonafide and genuineness of the parties.

8. In any view of the matter, as the schemes referred to in the petition are to encourage and support the meritorious students of the State in recognition of their commendable performance in studies, it would always be open for the Government to consider as to whether the benefit accorded by the impugned notification dated 30.4.2013 ought to be extended to similarly placed students of other schools of the State. Be that as it may, having regard to the framework of the petition and the contents thereof, we are not persuaded to intervene by treating the same to be a public interest litigation. It is thus closed.