

(2020) 08 RAJ CK 0169

In the Rajasthan High Court

Case No : Civil Writ Petition No. 4784, 5500, 7293 Of 2020

Sohanlal And Ors

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 21-08-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 161

Citation : (2020) 08 RAJ CK 0169

Hon'ble Judges : Dinesh Mehta, J

Bench : Single Bench

Advocate : Devki Nandan Vyas, Rajesh Punia, Vishal Jangid, Hemant Choudhary

Judgement

1. The facts in brief are that despite clearing the examination successfully, names of 18 candidates, including petitioners were not included by the respondent - Commission, citing administrative reasons, when result of Senior Teacher (Hindi) Secondary Education Selection Examination, 2018 was declared on 08.08.2019.

2. Upon enquiry being made by the petitioners, they were informed that their result has been withheld in wake of the FIR (No.231) dated 02.11.2018. Said FIR was lodged by one Laxminarayan Saini alleging that paper of Hindi - II held on 01.11.2018 had been leaked.

3. It is noteworthy that the informant did not even have personal knowledge about the incident and he had reported only on the basis of a news aired on a TV News Channel.

4. Being aggrieved of the withholding of result, petitioners filed a writ petition (No.17698/2019). During pendency of the writ petition, the Investigation Officer filed negative Final Report to the effect that the allegation of leakage of paper is not correct. It was clearly stated therein that no evidence/material has come up during investigation, which could indicate that paper was leaked and that 18 successful candidates, who took the exam at Madhav College, Barmer Center, including petitioners, had taken any undue advantage/benefit.

5. Petitioners' earlier writ petition was disposed of by this Court on 05.03.2020, with a direction to the petitioners to place the same before RPSC and corresponding direction to the RPSC to consider the Final Report and proceed in accordance with law.

6. Petitioners' representation remained unheeded and in the meantime, RPSC issued notice for allotment of Division. As the petitioners were not called for counseling, they have approached the Court by way of instant writ petition.

7. Mr. Vyas, learned counsel for the petitioners submitted that after thorough investigation neither the complaint of leakage of paper was found true nor was the Center Superintendent and 18 successful candidates from Madhav College, Barmer were found in any manner involved in any malpractice. He argued that RPSC is not justified in depriving the petitioners of their rightful claim of taking part in the process of allotment of Division.

8. He further informed that statements of all successful candidates were recorded under Section 161 Cr.P.C. and they were held not responsible for the leakage of paper - even allegation of leakage per se was found baseless by the Investigation Officer and a negative FR has been filed.

9. Mr. Rajesh Punia, learned counsel appearing for the respondent - Commission, though admitted that the Police had filed FR, but pointed out that the same has not yet been accepted by the Competent Court. He submitted that the Commission has not permitted them apprehending that the petitioners have taken advantage of leakage of paper.

10. Upon Court's query as to whether the Commission has done any exercise to enquire at its level to ascertain whether the paper was leaked, he frankly admitted that no such attempt has been made by the Commission. He further admitted that the Commission has not filed protest petition against the Negative Final Report.

11. Heard and perused the relevant material including the Final Report.

12. Having perused the same, this Court is of the view that since the Investigation Officer/Police itself has furnished the final report and denied the factum of leakage of paper, no fruitful purpose would be served by withholding the results of the petitioners and restraining them from taking part in the further process of selection.

13. On 11.08.2020, this Court had directed the Commission to keep the results of the petitioners in the sealed envelope on the next date of hearing.

14. The result of the petitioner was brought to the Court in sealed envelope; the same was, however, returned to Mr. Punia in a sealed cover so that it be declared/processed in accordance with law.

15. Having regard to facts and circumstances of the case, particularly when the Police has given a report that paper was not leaked, this Court is of the

considered opinion that the fate and future of petitioners and other successful candidates from Madhav College Center cannot be kept in suspended animation.

16. It was incumbent upon RPSC to take a decision upon petitioners' representation, which they have filed in furtherance of the order dated 05.03.2020. Inaction, rather, failure to take a decision by RPSC has led to injustice to the petitioners for none of their fault.

17. A perusal of the FR (Annex.3) reveals that police has conducted thorough investigation - they have examined CCTV cameras, taken statements of all concerned and have even taken call details of all the accused, including petitioners and have found that the phones were either switched off or there were no calls between the accused persons and the petitioners before and during the period of examination.

18. This being the position, present writ petitions are allowed. RPSC is directed to recommend the name(s) of the petitioner(s) , who have been found successful, if they are otherwise eligible.

19. Needful be done by 07.09.2020.

20. The candidates, recommended for appointment, shall be accorded appointment and posting by the State by 31 st October, 2020.

21. Their appointments shall, however, remain subject to the fate of acceptance/rejection of the FR, which has been filed by the Investigation Officer in relation to FIR No.231/2018 dated 02.11.2018.

22. Appointment orders issued to the petitioners shall contain a note to this effect and the State shall obtain an undertaking from each of the candidates being offered appointment that their appointments shall remain subject to the result/outcome of the FIR and/or any further order to be passed by the competent Court in this regard.

23. Competent Court, while taking decision on the Final Report submitted by the Investigation Officer, will be free to take its independent view of the matter and observations made hereinabove will not be binding upon it. The Competent Court is, however, requested to take a final decision upon the FR in relation to FIR No.231 dated 02.11.2018 in Police Station Sadar, Barmer expeditiously.

24. Stay applications also stand disposed of.

25. No order as to costs.