
(2002) 02 JH CK 0019

In the Jharkhand High Court

Case No : W.P.C. No. 952 of 2002 & Writ Petition (C) No. 952 of 2002

Sourav Banerjee and Others

APPELLANT

Vs

Jharkhand Secondary Examination Council and Others

RESPONDENT

Date of Decision : 11-02-2002

Acts Referred:

Bihar School Examination Board Regulations, 1964 — Regulation 2

Citation : AIR 2002 Jhar 118

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

Bench : Single Bench

Advocate : M.M. Pan, for the Appellant; Kalayan Roy, for the Respondent

Final Decision : Allowed

Judgement

1. Heard the Counsel for the parties.

2. Reference may be made to the order dated 6.2.2002 which reads as under :

"Mr. Kalayan Roy, learned Counsel appearing for the School Examination Board, prays three days time to seek instruction and file counter-affidavit.

As prayed for. put up this case on 11.2.2002."

3. The matter relates to appearance of the petitioners in the matriculation examination. Since the last date for submission of form with fine has been fixed by the Board as 12.02.2002 and the examination is to commence from 1st March. 2002. this Court, by the aforesaid order, directed the Board to file counter affidavit but no counter-affidavit has been filed. This shows how the authorities of the Board take such a serious matter so lightly,

4. I have heard Mr. M.M. Pan. learned Counsel for the petitioners and Mr. Kalayan Roy appearing for the Board and this writ application is disposed of at this stage- The petitioners are the regular students of S.S. High School, Chandil. They deposited the requisite fee for their registration for appearing in the coming matriculation examination. 2002. The petitioners were duly registered by the

Jharkhand Secondary Examination Council, Ranchi treating their date of birth as 1.3.98. However, a notice was published in the newspaper to the effect that those candidates whose date of birth is after 1.3.98. shall not be allowed to appear in the examination.

5. Mr. Pan. learned Counsel for the petitioners submitted that there is no such restriction in the Bihar School Examination Board Regulation, 1964 debarring a candidate from appearing in the examination who does not attained the age of 14 years. Learned Counsel further submitted that the age of the petitioners was short only by 2-3 months and even they are ready to accept their date of birth as amended by the Board while issuing registration certificate.

6. Mr. Kalayan Roy. learned Counsel appearing on behalf of the respondents-Board submitted that the Board has" issued a notification mentioning specifically that the candidates who have not attained the age of 14 years, shall not be allowed to appear in the matriculation examination but the said notification has not been produced before this Court.

7. The Bihar School Examination Board Regulation. 1964 which is admittedly applicable to the Jharkhand School Examination Board, lays down the eligibility criteria. For better appreciation the relevant portion of the said provisions of the Regulation is quoted hereinbelow :

"2. Eligibility of candidates.--Subject to conditions prescribed under these regulations the following class of candidates shall be eligible to be sent up for the examination of the Board:

(a) The candidate who has attended a regular course of study in the topmost class in one or more High Schools for at-least one session immediately preceding the Examination in which he intends to appear and whose record of work and conduct are assessed to be satisfactory and who has been found fit for being sent up.

(b) The candidate who has failed at the examination of the Board or could not appear therein after having been sent up and has not Joined any High School, on the production of a certificate of (i) Good conduct, and (ii) diligent and regular study from the Headmaster or from the Principal of the Schools last attended by him.

(c) The candidate who has been duly registered by the Board under Article 22 of Chapter IV of this regulation."

8. A bare perusal of the aforesaid provisions shows that the Regulation has not imposed any restriction in the matter of allowing candidates to appear in the matriculation examination who have not attained the age of 14 years. It is not a case where the petitioners are appearing as private candidates, rather, they were reading in the said school as regular students and they have got their registration for appearance in the examination.

9. In the absence of any provision under the Regulation. I am of the opinion that these petitioners cannot be debarred from appearing in the matriculation examination merely because they have not attained the age of 14 years as their age is in between 13 years 10 months and 13 years 11 months 15 days.

10. For the aforesaid reason, this writ application is allowed and the respondents-Board is directed to allow the petitioners to appear in the matriculation examination. Since the last date of submission of forms with fine is 12.2.2002, the respondent-Board is directed to accept the applications and fees from the petitioners if they submit it by 13.2.2002. The petitioners shall produce a copy of this order along with the applications.