
(1957) 02 RAJ CK 0001

In the Rajasthan High Court

Case No : Civil Writ Petition No"s. 253, 260, 261 and 262 of 1956

Surendra Kumar Jain and Others

APPELLANT

Vs

Central Board of Secondary Education, Ajmer and Others

RESPONDENT

Date of Decision : 01-02-1957

Acts Referred:

Constitution of India, 1950 — Article 12, 13, 14

Citation : AIR 1957 Raj 206 : (1957) RLW 420

Hon'ble Judges : Sharma, J;Bapna, J

Bench : Division Bench

Advocate : J.P. Jain, for the Appellant; B.P. Beri, for the Respondent

Final Decision : Dismissed

Judgement

Bapna, J.

These four petitions raise identical issues, and are dealt with by a single Judgment.

2. The broad facts alleged on behalf of the petitioners are that the Central Board of Secondary Education, Ajmer, was constituted by a resolution of the Government of India, Ministry of Education, to conduct the High School and Intermediate Examination of the students reading at Ajmer. The said Board in the month of September 1956, intimated to the petitioners that they were not eligible to sit for the High School Examination of 1957 as they were below 14 years of age. A long correspondence with various authorities was carried on by Dr. Manoharlal Bhargava, on behalf of all such students who had not attained the age of 14 years on the prescribed date, but without any result.

3. Regulation No. 20 passed by the Central Board, in pursuance whereof the petitioners were not held qualified to appear at the High School Examination, 1957, is as follows:--

""Notwithstanding anything Contained in the Regulations of the Board, no

candidate who is less than 14 years of age will be permitted to appear at the High School Examination of the Board and no candidate who is less than 16 years of age will be allowed to appear at the Intermediate Examination of the Board."

By a note it was provided that--

"Age of candidates as per this Regulation will be calculated on the first of March of the year in which a candidate would appear at an examination. If any candidate on this date is found to have not completed the age prescribed, he will not" be admitted to the examination."

Certain exceptions were made, with which we are not concerned.

4. The petitioners challenge this Regulation of the Board on the ground that it is hit by Art, 14 of the Constitution inasmuch as the Rajputana University has no lower age limit for students appearing at the High School Examination of that University, and that, therefore, only the students of the Ajmer schools find themselves discriminated. It is prayed that Regulation No. 20 framed by the Board as aforesaid be declared void, and the Central Board may be prohibited from enforcing the said Regulation against the petitioners.

5. Petition No. 260 of 1956 is by Surendra Kumar and Sushil Kumar, both students of the D. A. V. High School, Ajmer, and desire to sit at the High School Examination of the Board in March 1957.

6. Petition No. 261 is by Basant Kumar and Inderchand reading at the Husband Memorial High School, Ajmer, who wish to sit at the High School Examination of the Board in March 1957.

7. Petition No. 262 is by Jitendra Singh reading in Gautam High School, Ajmer, and wishing to appear at the High School Examination of 1957.

8. Petition No. 253 of 1956 is by Sudharshan Kumar, Arun Kumar, Vijendra Kishan, Mahesh Narain, Vinod Bhushan Kumar, Balbir Singh, Rajendra Singh, Bhagwat Swaroop and Umesh Kumar, who are students of Government High Secondary School, Ajmer, and wish to appear for the High School Examination of the Board in March 1957.

9. The reply on behalf of the Board is that no fundamental right "of any of the petitioners is involved. The Central Board provides for the education of students in certain" areas by virtue of Government Resolution dated 1-7-1929, and its subsequent amendments, and does not make discrimination amongst any of its students. Regulation 20, which is challenged by the petitioners, is applicable to all students who wish to appear for the Examinations of the Board.. It was also urged that Article 14 of the Constitution was inapplicable where the rules or directions sought to be compared were issued by different authorities.

It was further urged that this Regulation No. 20 was passed by the Board in April 1954, and was duly advertised, and intimation thereof was given to all the heads

of institutions recognised by the Board, and, therefore, the students, who desired to tyke any examination of the Board, could be presumed to have done so" subject to the aforesaid Regulation as also all other Regulations that had been framed by the Board from time to time.

10. During the course of arguments it transpired that while previously the Central Board of High School and Intermediate Examination was established to supervise and regulate secondary education in certain Part C States and Part D territories, the Government of India, by Resolution of 31-10-1956, reconstituted the Board so that its services could be availed of by any State in the Indian Union, and it was granted power to affiliate institutions which are located in any part of the Union and which wish to prepare candidates for the examination of the Board, vide Gazette of India, Part I-Section 1, of November 10, 1956.

It was also found that although the Board was originally constituted by the Resolution of the Government of India dated 1-7-1929, -and subsequent amendments thereof, the Board registered itself as a Society under the Societies Registration Act (21 of 1860) on 2-1-1935, which had for its regulation the resolutions of the Government starting from 1-7-1929, and Subsequent amendments, as also the Regulations and Rules and Bye-laws framed by the Board itself. The reconstituted Board adopted all these Rules, Regulations and Bye-laws by resolution of the "Government of India dated 31-10-1956.

11. In my opinion, Regulation 20 of the Board prescribing the age limit to be not less than 14 years for appearance at the High School Examination and to be not less than 16 years for appearance at the Intermediate Examination of the Board is not discriminatory, and is not hit by Article 14 of the Constitution. The aforesaid Regulation is applicable to all students who wish to appear at the Examination held by the Board.

The fact that the Rajputana University has no such lower limit for age for its own High School Examination is irrelevant, for that Examination is quite different and separate from the Examination that is conducted by the Central Board, and it is immaterial that the name of the Examination is High School Examination held by either of the two authorities, and is also considered, equivalent for purposes of admission in the Intermediate classes in Colleges affiliated to the Board or to the University.

12. Learned counsel for - the petitioners contended that as Ajmer now forms part of Rajasthan, only students reading in the Ajmer schools, who are, below 14, are barred from appearing at the High School Examination of the Board, while the other students in Rajasthan, who take the High School Examination of the Rajputana University are not so disqualified.

13. As stated earlier, the two examinations are entirely different prescribed by different authorities. As observed in the The State of Madhya Pradesh Vs. G.C. Mandawar, where the sources of authority for the two Statutes are different, Article 14 can have no application. This is emphasised by the fact that from

31-10-1956, the Board is not only for Ajmer, but its services may be availed of by any State in the Indian Union, and it was given power to affiliate institutions which are located in any part of the Union and which wish to prepare candidates for the examination of the Board.

The Central Board of Secondary Education, though formed under the Resolution of the Government of India, is a juristic person, having been registered under the Societies Registration Act, and it is entitled to frame its own regulations for the conduct of its business as for the examinations which it may hold, and for the qualifications entitling the candidates to sit at its examinations. For the same reason the Rajputana University, or for that matter, any other University or Board, is entitled to make its own regulations and prescribe qualifications which may entitle candidates to appear at the examinations held by Such Board or University.

The fact that the Government of India has control over the Central Board of Secondary Education does not make it a State within the meaning of Article 12 of the Constitution.

14. The Regulations framed by the Board are not laws within the meaning of Article 13 of the Constitution. The Resolution of the Government or the Regulations, Rules and Bye-laws did not emanate from any legislative authority. There is no force in the contentions raised by the petitioners.

15. It was faintly argued that the petitioners did not know of this Regulation before September 1956, and the bar had all of a sudden come upon them, and it would be unjust not to permit the applicants to appear at the Examination of the Board to be held in March 1957, because if they had been intimated earlier, they could have joined any other institution affiliated to the Rajputana University or other organisation where the bar did not exist.

16. The Regulation of the Board was passed in April 1954, and according to the affidavit of the Secretary of the Board it was duly published in various newspapers, and intimation thereof was given to all institutions recognised by the Board, and if the petitioners did not know their parents or guardians" should be presumed to know the age limit of the boys appearing for the High School and Intermediate Examination of 1957. Various cuttings from the newspapers have been filed, in which the resolution regarding age limit was published in 1954.

17. There is no force in any of the contentions raised on behalf of the petitioners, and the petitions are accordingly dismissed with costs.

Sharma, J.

18. I agree with the order proposed by my brother Bapna, J. I also agree with his view that the Rajputana University Board of High School and Intermediate Examination and the Central Board of Secondary Education, Ajmer, are two different authorities and the fixing of 14 years as the minimum age limit for the High School examination candidates and 16 years for Intermediate Examination

candidates by the said - Central Board is not hit by Article 14 of the Constitution of India simply because the Rajputana University has prescribed no such age-limits.

The ruling of their Lordships of the Supreme Court in *The State of Madhya Pradesh Vs. G.C. Mandawar*, clearly lays down that where the sources of authority for the two Statutes are different, Article 14 can have no application. The mere fact that the Office of the Ajmer Secondary Board is also situated in Rajasthan and candidates from Rajasthan are also allowed to appear at the High School and Intermediate Examinations of that Board and that the Rajputana University also has its office in Rajasthan and carries on examinations and allows candidates from Rajasthan to sit for its examinations and has prescribed no age limit, cannot attract the application of Article 14. On this ground alone, therefore, the petitions deserve to be dismissed,

19. I am, however, of opinion that under the circumstances of this case, it is not necessary for us to decide whether the Central Board of Secondary Education, Ajmer, comes within the definition of the word "State" within the meaning of Article 12 and the impugned Regulation of the Board comes within the definition of the term "law" within the meaning of Article 13(3)(a) of the Constitution of India. I do not, therefore, express any opinion in this case so far as this aspect of the matter is concerned.