

(2021) 07 KAR CK 0012

In the Karnataka High Court

Case No : Writ Petition No. 12441 Of 2021 (EDN-EX-PIL)

S.V. Singre Gowda

APPELLANT

Vs

State Of Karnataka & Others

RESPONDENT

Date of Decision : 12-07-2021

Acts Referred:

Citation : (2021) 07 KAR CK 0012

Hon'ble Judges : B.V. Nagarathna, J;Hanchate Sanjeevkumar, J

Bench : Division Bench

Advocate : R.P. Somashekaraiah, Prabhuling K. Navadgi, Pramodini Kishan

Final Decision : Dismissed

Judgement

B.V. Nagarathna, J

1. This petition is stated to be filed in public interest, questioning the Notification dated 5.2.2021 and Time Table issued by respondent No.3, vide

Annexures-A and B, with regard to conducting SSLC exam for the Academic Year 2021, scheduled to be held on 19.7.2021 and 22.7.2021 and other

incidental and ancillary reliefs.

2. According to the petitioner, Corona Virus-Covid-19 pandemic has led to issuance of the Notifications as per Annexures-A and B. Although the

pandemic has already completed its first and second waves, there is grave apprehension that the third wave of the pandemic is expected in the near

future, which would affect children in the age group of 1 to 15 years. It is contended that, conduct of the SSLC examination as per Notification dated

5.2.2021, and as per the Time Table dated 28.6.2021, issued by 3rd respondent, commencing from 19.7.2021 and concluding on 22.7.2021, is not in the

interest of the students. It is further contended that the students are not in a

position to appear in these examinations in the State on account of the Covid-19 pandemic. It is further stated that ICSE and CBSE examinations for 10th standard was cancelled by the Central Government and many State Governments have also cancelled State Board examinations. Hence, it is unnecessary and also dangerous to hold the examination in the State of Karnataka, as it would affect about nine lakh students including repeaters and expose them to a high risk of the virus. Therefore, petitioner has assailed Annexure-A being the Notification with regard to holding of 10th Standard examination and Annexure-B, which is the revised Time Table for the said examination.

3. We have heard learned counsel, Sri.R.P.Somashekharaiiah, for the petitioner and learned Advocate General along with Additional Government Advocate, for the State and other Authorities, by way of assistance.

4. Petitioner's counsel submitted that all over India 10th Standard examination has been cancelled by various State Governments, in fact the Central Government also cancelled holding of the ICSE and CBSE examinations for 10th standard. That it is only in the State of Karnataka that the 10th

Standard examination is going to be held, thereby exposing nine lakh students including repeaters to a high risk of Corona Virus-Covid-19 pandemic.

He contended that the students would not be in a position to attend the examination on 19.07.2021 and 22.07.2021 in the revised format. That the State is experimenting on the students by conducting the examination on two days by clubbing three subjects in a paper comprising of three hours. That, it is impossible for the students to be prepared in three subjects at a time, in a paper, the same is stressful and would cause undue tension to them.

Therefore, the students must be promoted without having to attend any Board examination. Learned counsel for the petitioner further submitted that the revised format of examination is contrary to the extant format of conducting the 10 th Standard Board exam. That the ensuing examination to be conducted for SSLC students is not going to be of any benefit to the students in the State.

5. He also submitted that a large percentage of teachers and students have not been vaccinated and therefore there is risk of exposing such students to the infection during the examination to be held on 19.07.2021 and 22.07.2021. Learned counsel for the petitioner, submitted that, the impugned

Government Notification dated 5.2.2021 (Annexure-A) and the revised Time-Table (Annexure-B) for holding the examination on the said dates be stayed and the writ petition be allowed.

6. Per contra, learned Advocate General along with Additional Government Advocate made submissions with reference to statement of objections

filed on behalf of respondents including certain documents. Learned Advocate General drew our attention to the fact that Circular has been issued on

21.6.2021, which is the Standard Operating Procedure (SOP) to be followed while conducting the SSLC examination 2020-21 in July, 2021 in the

back-drop of Covid-19 pandemic. He submitted that a detailed SOP has been drawn up having regard to the order passed by Co-ordinate Bench of

this Court in Writ Petition No.7201/2020 dated 27.5.2020. That, at paragraph No.15 of the said order, this Court issued directions to conduct the SSLC

examination last year, which are to be complied with bearing in mind the safety and health of the students as well as the teachers and other

stakeholders. It was further submitted that the aforesaid order was assailed before the Hon'ble Supreme Court in SLP (Civil) Dairy No(s).

12064/2020. But, the said SLP was dismissed by order dated 17.6.2020.

7. It was submitted by learned Advocate General that presently in the State, the positivity rate is only 1.48%. This is the most ideal time of the year to

conduct the examination. In the usual course the examinations would have been held in March, April, 2021. Since at that time, the second wave of the

pandemic was at its peak and raging in the State, conducting SSLC examination was postponed, it was never cancelled. Having regard to the opinion

of the expert committee which is Covid-19: Technical Advisory Committee, Karnataka, vide proceedings of the 110th meeting of the State Committee

held on Friday, 11.6.2021, the guidelines/SOP have been issued by the said Committee for conducting SSLC examination in the third week of July,

2021 (Annexure-R2). The said guidelines and instructions of the Technical Advisory Committee shall be complied with as per the Circular dated

21.6.2021, which is the SOP to conduct SSLC examination in the backdrop of least number of Covid-19 cases in the State. Hence, learned Advocate

General submitted that there is no merit in the petition and the same may be dismissed.

8. The detailed narration of facts and contentions would not call for reiteration.

Judicial notice will have to be taken of the fact that the second wave of the Covid-19 pandemic is presently ebbing in the State of Karnataka and as mentioned by learned Advocate General, the positivity rate is just 1.48%. But, during the months of March, April and May, this year there was a grave apprehension with regard to the conduct of the SSLC as well as

II PUC examination. The State took a decision to postpone the SSLC examination, but never to cancel it. Consequently, on receipt of the opinion from the Technical Advisory Committee, which has given its guidelines for conducting the examination in the 3rd week of July, 2021, the examination is being held. In fact, learned counsel for the petitioner drew our attention to Annexure-B, which is the Time Table for holding examinations on 19.07.2021 and 22.07.2021, in a format by way of objective type questions. Holding of the said examinations in such a format is to ensure that the students attend the examinations for only three hours each on 19.07.2021 and 22.07.2021 and in all the subjects. In the usual course, the examination would have been for three hours each for six days. But, being mindful of the risk of health and safety of the students and staff who would be engaged in the SSLC examination, the State has devised a revised format of examination as well as revised Time Table. The petitioner has not been able to substantiate how the said format of examination and the Time Table are arbitrary in nature.

9. On the other hand, petitioner's counsel submitted that, if the students are forced to attend the examination on 19.07.2021 and 22.07.2021 and thereafter they suffer from Covid-19, the State would be responsible for the same. In this regard we observe that no student could be forced to attend the examination, either by the State or by the parents. The decision to attend the examination should be a collective decision of the parents and the students concerned. However, we find that the attendance in the 10th standard examination, which is in the nature of a Board Examination being conducted by the State on 19.07.2021 and 22.07.2021 is in the interest of the students, as they would have a good basis in future vis-à-vis their academic and professional career. There would be material to evidence the fact that they attended the State Board examination and marks card was issued on that basis and were not simply declared as ""pass"" without attending any examination.

10. Further, unlike in the case of II PUC examination, where data was available to assess the performance of the students in the formula of 45%-

SSLC Marks; 45%-I PUC marks and 10%-II PUC internal assessment, (45%+45%+10%), on the basis of which results could be declared by the

State, there is no such data available insofar as the students in schools are concerned, so as to simply promote them on the basis of such a formula.

Therefore, we find that there is no arbitrariness in the decision of the State of Karnataka to hold the examination in a revised format on 19.07.2021

and 22.07.2021.

11. We also observe that in the previous Academic Year i.e. 2019-2020, the Covid-19 pandemic was in the first wave, when there was a similar

challenge made to holding of the examination in the month of June, 2020. This Court was not inclined to interfere in the matter and on the other hand,

issued guidelines for holding the examination having regard to the health and safety of the teachers, students and other stakeholders. Learned

Advocate General also submitted that the said guidelines have been incorporated in the SOP to be followed for conducting the examinations on

19.07.2021 and 22.07.2021. Therefore, we find that the State has taken care to conduct the examination by issuing the SOP to be complied with in the

form of Circular dated 21.6.2021 to be complied with by all the students, teachers and other stakeholders.

12. Learned Advocate General also pointed out that the Notification dated 5.2.2021 has nothing to do with the decision taken with the State

Government to hold the SSLC examination, which is as per Government Order dated 18.6.2021, (Annexure-R1), which is not at all challenged in the

writ petition.

13. Moreover, the petitioner has not been able to point out as to how the decision of the State of Karnataka to conduct the SSLC exam on 19.07.2021

and 22.07.2021, is arbitrary or that the same interferes with the rights of the students and other stakeholder.

We do not find any merit in the petition.

Petition is hence, dismissed.

We however direct that the State and its Authorities shall conduct the examinations on 19.07.2021 and 22.07.2021, strictly in accordance with the

SOP issued in the form of Circular dated 21.6.2021 and by following social

distancing, use of mask and use of sanitizers (SMS).