
(2020) 06 UK CK 0027

In the Uttarakhand High Court

Case No : Writ Petition (PIL) No. 98 Of 2020

Vijay Kumar Baurai

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 17-06-2020

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2020) 06 UK CK 0027

Hon'ble Judges : Ramesh Ranganathan, CJ; R.C. Khulbe, J

Bench : Division Bench

Advocate : Devesh Upreti, S.S. Chauhan

Final Decision : Dismissed

Judgement

Ramesh Ranganathan, CJ

1. Heard Mr. Devesh Upreti, learned counsel for the petitioner and Mr. S.S. Chauhan, learned Deputy Advocate General appearing for the State

Government.

2. The petitioner has invoked the Public Interest Litigation jurisdiction of this Court to quash the letter dated 10.06.2020 issued by the Uttarakhand

Education Board to conduct Classes 10th and 12th board examinations from 22nd to 25th June, 2020. The petitioner claims to be espousing the cause

of the poor students of the State studying in various Government Schools. He seeks, among others, for a direction to the respondents to declare the

result of the 10th and 12th classes on the basis of the internal performance of students or on the basis of their performance in other subjects for which

they have already appeared in the examination.

3. When we asked Mr. Devesh Upreti, learned counsel for the petitioner, whether

the petitioner's children were appearing in the Classes 10th or 12th board examinations, learned counsel would submit that the petitioner's children are not studying in Classes 10th or 12th; and he is espousing the cause of poor students, studying in Government schools, who may, by appearing for the 10th and 12th classes board examination, contract the COVID-19 disease.

4. The lockdown restrictions, strictly imposed earlier, have been largely relaxed from 2nd June, 2020, and several activities are being permitted to be undertaken, including commercial activities. Complaints, similar to the one made in this Writ Petition, can also be made regarding the legality or otherwise of the action of the Government in permitting several establishments to carry on commercial operations. While the threat, of spread of COVID-19 disease, undoubtedly exists, the scope of judicial review, in proceedings under Article 226 of the Constitution of India, is limited. This Court would not don the robes of the Uttarakhand Education Board to issue the directions sought for in this Writ Petition, for these are all matters for the Board to consider and not for this Court to direct.

5. While we see no reason to entertain this Writ Petition, filed by a person whose children are not even appearing in the ensuing 10th and 12th classes board examinations, suffice it to make it clear that the order now passed by us shall not disable any individual parent, whose child is appearing for the 10th or 12th class board examinations, from availing his/her judicial remedies, including by invoking the jurisdiction of this Court under Article 226 of the Constitution of India, if they are so aggrieved. As the spread of COVID-19 is being monitored, and executive decisions are periodically taken depending on a change in the situation, we also make it clear that the order now passed by us shall not obligate the Uttarakhand Education Board to conduct examination on the scheduled dates, and it is open to them to take an appropriate decision, whether or not to conduct the examinations, depending on the situation prevailing on the eve of the examination. Needless to state that, even if the Board proceeds to conduct examinations on the scheduled dates, necessary steps shall be taken to ensure maintenance of social distancing norms both near the examination centre and within the examination hall; and all the students, who appear in the examination, shall be directed to wear masks in order to prevent further spread of the

COVID-19 disease through droplets.

6. Subject to the aforesaid observations, the Writ Petition fails and is, accordingly, dismissed. No costs.