
(2019) 08 RAJ CK 0306
In the Rajasthan High Court
Case No : Civil Writ Petition No. 3860 Of 2019

Yogesh Kumar

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 13-08-2019

Acts Referred:

Citation : (2019) 08 RAJ CK 0306

Hon'ble Judges : Sangeet Lodha, J

Bench : Single Bench

Advocate : Shweta Bora, Rakesh Arora, Harsh Chittora, Sanjeet Purohit

Judgement

1. This writ petition was filed by the petitioner seeking directions to the respondents to accept the application of the petitioner and provide him a scribe to write Class X Examination conducted by the respondent-Secondary Board of Education Rajasthan, scheduled to commence on 14.3.19.
2. The facts relevant are that the petitioner, a differently abled person, suffering from total absence of sight, filled up the examination form for appearance in the Class X Examination. The petitioner made an application to provide him a scribe of his own choice to write the examination, however, his request was not acceded to by the respondents.
3. Precisely, the case set out by the petitioner is that as per office memorandum dated 26.2.13 issued by the Government of India, the petitioner was entitled to be permitted assistance of prompter and scribe of his choice in relaxation of the criteria like education qualification, age or other such restrictions. As a matter of fact, the Government of India had issued office memorandum dated 29.8.18, whereunder it was provided that the candidate should have discretion of opting for his own scribe/reader/lab assistant or request the Examining Body for the same. The Examining Body was expected to identify the scribe/reader/lab assistant to make panels at the District/Division/State Level as per the requirement of examination. It was further provided that in case the candidate is

allowed to bring his own scribe, the qualification of the scribe should be one step below the qualification of the candidate taking examination. However, the petitioner has brought on record office memorandum dated 1.1.19 (Annexure A/1), issued by the Ministry of Social Justice and Empowerment providing that till the panel of the scribes is not formed, any of the departments, which are conducting exams, shall not conduct the exams in terms of the Guidelines dated 29.8.18. The said office memorandum was issued pursuant to the decision of the Delhi High Court in the matter of "Shri Aditya Narayan Tiwari vs. Union of India & Anr.", decided on 15.11.18. According to the petitioner, the respondent having failed to constitute the panel of scribes, could not have enforced the office memorandum dated 29.8.18 and the petitioner was entitled to opt for his own scribe.

4. On 13.1.19, a coordinate Bench of this court while issuing notices to the respondents, passed an interim order in favour of the petitioner in the following terms:

"Meanwhile, the petitioner shall be permitted to take the services of his own Scribe in ensuing Secondary Examination. The result of the petitioner be placed in a sealed cover and will be subject to the outcome of the present petition."

5. Pursuant to the interim order passed as aforesaid, the petitioner was provided services of a scribe by the respondent, who was holding the qualification one step below the qualification of the petitioner for the examination held on 14.3.19, however, in subsequent examinations held on 16.3.19, 18.3.19, 22.3.19, 25.3.19 and 27.3.19, the petitioner was provided services of scribe of his own choice, who was holding the qualification of Class X.

6. Vide order dated 24.7.19 passed by a coordinate Bench, the respondent-Board of Secondary Education was directed to bring the result of the petitioner in sealed cover on the next date of hearing. The result of the petitioner was produced by the respondent before this court on 30.7.19. As per the result sheet, the petitioner was awarded supplementary in two papers i.e. Hindi and English. The result sheet was returned to the counsel for the respondent in the sealed cover.

7. Now, by way of an application (No.3/19) filed by the respondent-Board, it is submitted that the answer sheets of the petitioner was sent by the Central Superintendent in two different packets for reasons best known to him. It is submitted that since the answer sheets of the petitioner were received in two different envelopes, the marks of the four subjects obtained by the petitioner were entered in the computer, however, the marks obtained in remaining two answer sheets were not entered and thus, after inclusion of the marks obtained by the petitioner in the remaining two subjects, which were not included in the result sheet produced before this court on 13.7.19, the revised result is prepared. Revision result is produced in sealed cover, which was opened in the court. As per the result sheet, the petitioner has passed the secondary

examination.

8. As noticed above, as per the memorandum dated 1.1.19 issued by the Government of India, all Examining Bodies are directed to make a panel of scribe/reader/lab assistant at the District/Division/State Level in terms of clause V of the Guidelines dated 29.8.18 and it is clarified that till the panel of the scribes is not formed, any of the department who are conducting the exams shall not conduct the exam in terms of Guidelines dated 29.8.18. It is not disputed by the learned counsel appearing for the respondent that the respondents are following the Guidelines issued by the Government of India from time to time in respect of the differently abled persons taking the examinations and the respondent-Board has not yet prepared the panel of the scribes in terms of office memorandum dated 29.8.18. In this view of the matter, the result of the petitioner, who has already passed the examination by taking assistance of the scribe, deserves to be declared.

9. Accordingly, the respondents are directed to officially declare the result of the petitioner and issue him the mark sheet expeditiously, in any case, within a period of two weeks from the date of receipt of certified copy of this order. No order as to costs.

The original result sheet produced be returned to the counsel for the petitioner while keeping a photo stat copy thereof on record.