

Court No. - 10

Case :- WRIT - C No. - 25668 of 2023

Petitioner :- C/M Sardar Patel Inter College And 2 Others

Respondent :- State Of U.P. And 5 Others

Counsel for Petitioner :- Raj Kumar Kesari

Counsel for Respondent :- C.S.C.

Hon'ble Kshitij Shailendra,J.

1. Rejoinder affidavit filed today is taken on record.
2. Heard Shri Raj Kumar Kesari, learned counsel for the petitioners and Shri Jitendra Singh, learned Additional Chief Standing Counsel for the State and perused the record.
3. Counter and rejoinder affidavits have been exchanged between the parties and, therefore, the writ petition is being finally decided.
4. This writ petition has been filed claiming the following reliefs:-

"(i). Issue a writ, order or direction in the nature of certiorari to quash/set aside the impugned order dated 27.6.2023, 28.3.2022 and 14.12.2022 passed by respondent no.2.

(ii). Issue, a writ, order of direction in the nature of mandamus directing the respondents concerned to delete the name of petitioner's institution from the impugned list dated 14.12.2022, wherein, name of petitioner's institution has been recorded at Sl. No.27.

(iii). Issue, a writ, order or direction in the nature of mandamus directing the respondents concerned to allot the petitioner's institution as one of the center for ensuing High School and Intermediate Board Examination."

5. This Court, after hearing learned counsel for the parties, at the

first stage, passed the following interim order on 10.08.2023:-

"1. Heard Shri Raj Kumar Kesari, learned counsel for the petitioners, learned Standing Counsel for the State-respondents and perused the record.

2. The submission of learned counsel for the petitioners is that the secretary of the respondent-Board, by annexing a list of various Institutions, issued a letter dated 14.12.2022 to all the District Magistrates in the State of U.P. mentioning that the Institutions enlisted in the said list are not to be made Examination Centre in the Examinations of 2023.

3. The petitioner No. 1 being one of the Institutions enlisted in the aforesaid list, filed Writ C No. 7907 of 2023 (Committee of Management Sardar Patel Inter College and 2 others vs State of U.P. and 5 others), which was allowed by this Court by order dated 22.03.2023 and the order dated 14.12.2022 was quashed.

4. This Court in the aforesaid order noted a clear stand of the petitioners that the concerned examinations for recruitment of Lekhpals had never been conducted in the petitioners-Institution and, therefore, question of debarring the Institution on the ground that it was involved in facilitating the mass-copying by using solver gangs etc. is factually incorrect.

5. The matter was remitted by this Court to the Authorities for taking a fresh decision in the light of the aforesaid facts.

6. Two orders have been challenged by means of this writ petition, one dated 23.03.2023, which was passed just next day when the aforesaid writ petition was decided and the other on 27.06.2023, which is said to be in furtherance of the order of writ court.

7. The submission of Shri Kesari is that no clear finding has been recorded in the order impugned dated 27.06.2023 in relation to which particular examinations, respondents have arrived at a conclusion that

the petitioners were involved in facilitating mass-copying. He has referred to the finding recorded in the order impugned that respondents have proceeded to debar the petitioners for further examinations by making a vague observation that w.e.f. 2017 onwards, the petitioner No. 1, Institution has been made Centre to conduct 25 competitive examinations and during the course of enquiry conducted by the Special Task Force team, the Manager and Principal of the petitioners-Institution have been found involved.

8. Let a detailed counter affidavit be filed by the respondents with a specific pleading supported by relevant annexures annexing therewith the record of those examinations in relation to which the petitioners have been held guilty by the Special Task Force or the other Authorities as this Court feels that repeated remand to the Authorities would not serve any purpose of law.

9. All the respondents are directed to file counter affidavit within **six weeks** from today.

10. Rejoinder affidavit, if any, may be filed within **two weeks** thereafter.

11. Put up this case as fresh on 06.10.2023.

12. Till the next date of listing, the effect and operation of orders impugned dated 23.03.2023 passed by respondent No. 3, Deputy Secretary (Centre Establishment) and 27.06.2023 passed by respondent No. 2, U.P. High School and Intermediate Colleges Board, Prayagraj shall remain **stayed**. "

6. After the State filed counter affidavit, following order was passed on 13.10.2023:-

"1. Learned Standing Counsel submits that counter affidavit has been filed on 11.10.2023.

2. The same is not on record.

3. Office is directed to trace out the said counter affidavit and place the same on record.

4. Though, according to the learned counsel for the petitioners, the counter affidavit does not answer the queries mentioned in the interim order dated 10.08.2023, he may file rejoinder affidavit to the same on or before the next date fixed.

5. Put up this case as fresh on 06.11.2023.

6. Interim order, already granted, shall continue to remain operative till the next date of listing."

7. I have perused the stand taken in the counter affidavit.

8. It is contended by Shri Jitendra Singh, learned Additional Chief Standing Counsel by referring to various paragraphs of the counter affidavit especially 'paragraphs 8, 10 and 13' of the counter affidavit that the proceedings had been initiated by the Special Task Force, Uttar Pradesh and it was found proved that Principal/Manager/teachers and other employees, involved in the examination, in collusion with Gang Leaders were engaged in facilitating mass-copying and, therefore, decision was taken to debar the petitioners-Institution and to include them in the black-list. Reference to various letters of the State Government and other Authorities has been made, however, despite specific directions issued by this Court in the interim order, no specific details have been given in the counter affidavit at least in relation to the petitioners Institution as to in which examination, the petitioners were found involved in facilitating mass-copying and in what manner. Shri Jitendra Singh has further argued by referring to counter affidavit that in all types of offline examinations being conducted in the State, in the scrutiny of the proceedings being initiated by the Flying Squad of the Special Task Force, Uttar

Pradesh and that in the Revenue Lekhpal Examinations, held in various cities of the State, while taking illegal gratification from the candidates, while arranging solver and on breach of cleanliness and the Gang Leaders have been arrested by the Special Task Force, U.P. and in the legal proceedings initiated against them, mass-copying was proved on various Examination Centres in collusion with the Principal/Manager/Teachers and other Employees. However, the Additional Director General, Special Task Force, Uttar Pradesh has expected to blacklist various Examination Centres and for not selecting those Examination Centres for holding the examinations, hence, for the above reasons, a decision has been taken to debar the institution of the petitioners.

9. Shri Jitendra Singh has further argued that vide Letter No.CA/ADG-STF-05(37)/2022, dated 15.09.2022, on the head of the list of the institutions, it has been made clear that the list of the Examination Centers obtained from the Mobile Data of the Nakal Mafias, upon which the examinations of Revenue Lekhals and other competitive examinations were held and on making inquiry on the complaints made for the examinations held in the institution of the petitioner, the STF found involvement of mass-copying by the Manager/Principal of the institution, hence the decision for maintaining transparency and cleanliness in the Board's Examination and to stop the probabilities in mass-copying, is just and legal.

10. I find that contents of 'paragraph nos.8 and 10' of the counter affidavit are vague, however, insofar as the stand taken in 'paragraph 13' of the counter affidavit is concerned, it has been stated in the rejoinder affidavit that no evidence has been brought

on record to demonstrate the nexus of the petitioners Institution with details of mobile phones obtained by the alleged Nakal Mafias. Rejoinder affidavit, even otherwise, reiterates the stand taken in the counter affidavit.

11. I find that the main issue involved in the writ petition is as to whether the action taken by the respondents without giving particular details supported by evidence, the orders impugned can or cannot be justified. Neither in the affidavits nor in any material supported by affidavits, this Court finds any specific evidence against the petitioners so as to justify passing of the orders impugned. The State has utterly failed to come up with specific details and stand and it appears that in a generalized manner, the petitioners Institution were blacklisted.

12. Since in the earlier round of litigation also, orders of the identical nature were quashed and the matter was remanded to the Authorities, this Court has already observed in the interim order that successive remand would serve no purpose.

13. The writ petition is, accordingly, **allowed**.

14. The orders impugned dated **14.12.2022, 23.03.2023 and 27.06.2023** are hereby **quashed**.

15. The respondents **are directed to delete the name of the petitioners-Institution from the blacklist category** and, as soon as next High School and Intermediate Examinations are held, without being influenced by any observations made in the orders impugned, the respondents shall take a decision with regard to the petitioners' allotment as an Examination Centre.

Order Date :- 6.11.2023/Jyotsana