

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 10441 of 2000 (O&M)
Date of decision: 13.01.2015

Shri L.D. Senior Secondary School

... Petitioner

versus

Punjab School Education Board and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Manish Dadwal, Advocate, for the petitioner.

None for the respondents.

K.Kannan, J.

The petition is for a direction for refund of an amount of ₹1,18, 770/- directed to be deposited by the Court in the writ petition filed in CWP No. 3170 of 1999 on the eve of the examination when the students were being given their roll numbers. The amount was deposited as ordered by the court and the roll numbers were issued to the students and they took their examinations. After they wrote their examinations, the writ petition came to be disposed of on 20.09.1999 when the Division Bench had directed the results to be declared in the examinations that the students were allowed to take. This order was essentially on the ground that rules of natural justice had been breached in not affording the School an opportunity before the decision had been taken.

The prayer in the petition is for return of the amount that was directed to be paid through an interim order. It is inconceivable as to how the petitioner can have the relief through an independent writ petition of what should have been pressed and obtained by the petitioner at the time when CWP No. 3170 of 1990 was disposed of.

The payment made by the petitioner to the Board was under orders of

Court and not made *in gratis*. The directions which is sought for refund of the amount through an independent writ petition could literally amount to the modification of the order passed by the Division Bench of this Court.

Assuming for argument sake, that the present writ petition itself could be taken as a review petition and be placed before the Division Bench, even then the grounds of review are limited only to examining whether there was something patently erroneous that was missed for consideration while the Division Bench was allowing the writ petition. I find that there has been no plea made by the petitioner seeking for refund of the amount even at the time of disposal of the writ petition. I will not, therefore, find this to be an appropriate case for making such a refund.

Learned counsel states that all the students had paid the examination fees themselves and when the Court was directing a further payment for issue of roll numbers, the respondents were actually receiving amounts for the same purpose twice over. Such a contention does not also appear to be correct by the manner in which the respondent had joint issues on the petitioner's plea. The contention was that the petitioner had fraudulently admitted the students for middle examinations held in February 1997 and an enquiry was directed to be conducted by DEO. It was seen that the petitioner-School did not fulfil the requirements of affiliation. All the students had been favoured with issuance of certificate as though they were regular students, when actually the certificate could have been only in the capacity of appearance as private students since the admissions made by the petitioner were themselves bad in law. The respondents would state that they had sent the communication to the petitioner calling for the surrender of the detailed marks certificate of the students in order to make rectification of the category in which they could be taken as having appeared, but, there is no response from the petitioner. The respondent would therefore, contend that there is even more

money to be collected since the fee payable as private students is more and there had been no response from the petitioner for the surrender of certificates. I find that it will be unworkable to have the certificates surrendered at this length of time from any of the students and the petitioner may not have any control over the students who have passed and secured their detailed mark cards. The petitioner-school itself appears to have abandoned the courses for which the students had appeared in the examinations for the subsequent years. There is no scope for making possible the refund of the amount that had been paid.

The writ petition is consequently dismissed.

13.01.2015
Kumud

(K.KANNAN)
JUDGE