

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C. W. P. No. 15019 of 2015

Reserved On : February 09, 2016

Pronounced On : April 22, 2016

Subash Chander Petitioner

vs.

State of Haryana and others Respondents

Case No. : C. W. P. No. 17499 of 2015

Reserved On : February 09, 2016

Pronounced On : April 22, 2016

Raffik Mohmad Petitioner

vs.

State of Haryana and others Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

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To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

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Present : Mr. Abhishek Yadav, Advocate
for the petitioner (in both petitions).

Mr. Harish Rathee, Senior DAG, Haryana.

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DEEPAK SIBAL, J. :

The two writ petitions being **C. W. P. Nos. 15019 & 17499 of**

2015, involving identical issues, were heard together and therefore, a common decision thereupon is being taken through the present judgment.

The relevant facts, which need to be noticed for adjudicating upon the aforementioned writ petitions, are that in December 2012, the State Transport Department, Government of Haryana, invited applications for appointment of Heavy Vehicle Drivers (on contract basis). The prescribed qualifications were that a candidate should be Matriculate with Hindi/Sanskrit from a recognized Board or University, should be holding a valid transport vehicle driving license and having a minimum of two years' experience of driving a heavy goods vehicle including proficiency in driving heavy passenger motor vehicle or ten years' experience in driving a vehicle in the Armed Forces.

In pursuance to the aforesaid advertisement, the petitioner(s) applied for consideration of their candidature and being successful in the selection process, were offered appointment, however, subject to the following rider :-

“Attested copies of educational and professional qualifications and Matriculation certificates shall be furnished. The documents pertaining to your qualification, experience, age and caste/category, as claimed by you in the application form shall be got

checked/verified by the concerned General Manager, Haryana Roadways. If it is found that there is material discrepancy in the educational/professional qualifications, age, caste, reservation benefit under Ex-serviceman or outstanding sportsman etc. and experience that you had claimed in the application then this offer of appointment shall be treated as null and void.”

A perusal of the terms and conditions of appointment, as quoted above, show that the appointment of the petitioner(s) was subject to verification of their claimed educational/professional qualifications etc. and if, after verification, it was found that there was material discrepancy in the same, then the offer of their appointment shall be treated as null and void.

After the verification of the petitioners' Matriculation Certificates, it was found that the Board of Secondary Education, Madhya Bharat, Gwalior (hereinafter referred to as – the Board), from where the petitioner(s) had claimed to have passed their Matriculation examination, was not recognized. On that basis, a Show Cause Notice was issued to them as to why their services may not be dispensed with, to which they filed reply, after consideration of which, the impugned orders terminating the services of the petitioner(s), were passed.

Learned counsel for the petitioner(s) submitted that the Board of Secondary Education, Madhya Bharat, Gwalior, was a Board, which was recognized by the Government and in support of such contention, relied upon a Certificate issued by the Secretary of the Board, wherein it is mentioned that the Board is recognized by Uttar Pradesh Educational Act, 1921.

After considering the submissions made by the parties and perusing the record, I am of the opinion that the present petition must fail.

As per the terms of eligibility prescribed in the advertisement, only those candidates, who had passed their Matriculation examination from a recognized Board, were to be considered eligible for appointment. On repeated queries posed by the Court, learned counsel for the petitioner (s) was not able to show any document by any statutory Authority granting recognition to the Board, from where the petitioner(s) claimed to have passed their Matriculation examination. In fact, in an affidavit filed on behalf of the Government of India, it is specifically mentioned therein that the Board is not recognized by the Ministry of Human Resources and Development, Government of India. It is further mentioned in the affidavit that the Government of India had written to the Government of Madhya Pradesh to register an FIR against the Board for falsely claiming recognition from the Ministry of Human Resources and Development, Government of India, on the basis of a forged document. The affidavit further goes on to state that an FIR under Sections 420, 467 IPC has been

lodged against the Management of the Board and during the course of investigation, several forged documents have been recovered from the office of the Board and that the Director of the Board was also arrested. The relevant portion of the aforementioned affidavit filed is reproduced below :-

“3. That there are only two national level education boards namely Central Board of Secondary Education (CBSE) and National Institute of Open Schooling (NIOS) which have been established by the MHRD.

4. That the three Education Boards, namely Board of Secondary Education, Madhya Bharat, Gwalior, Board of Higher Secondary Education, New Delhi and Council of Secondary Education, Mohali, as mentioned in the order dated 01.10.2015 (Annexure-A1) of this Hon'ble Court are neither set up nor recognized by MHRD.

5. That MHRD, in order to ensure that innocent students do not become victim of unscrupulous and illegal activities of fake/unrecognised boards, had issued an advisory on 20.11.2008 (Annexure-A3) to all Education Secretaries of the State Governments and Union Territories and Chairpersons of CBSE and NIOS for prevention of functioning of fake boards within their defined territorial jurisdiction,

as stipulated in the State Education Acts or Rules. It is thus imperative that every State and Union Territory ought to have a provision to regulate recognition of Education Boards, conduct of public examination and issue of certificates by such Boards. The States/UTs are expected to function as watchdogs so that fake institutions, calling themselves examination boards and issuing certificates, do not operate under their territorial jurisdiction and if any such Boards exist, they should have appropriate mechanism to deal with such fake Boards.

6. That in so far as it relates to Board of Secondary Education, Madhya Bharat, Gwalior, MHRD had written to the Secretary (Education), Government of Madhya Pradesh vide letter dated 14.01.2013 (Annexure A4) to register an FIR against the said Board for falsely claiming to have recognition from the MHRD on the basis of a fake MHRD order.

7. That as per letter dated 31.10.2012 of the Director General of Police, Madhya Pradesh, the premises of Board of Secondary Education, Madhya Bharat, Gwalior were raided by the police authorities on 22.07.2012, forged documents were recovered, some accused

were arrested and a case was filed against them under Section 430 (sic) 467 of IPC at Thathipur Police Station, Gwalior. The Director of the Board was also arrested during the course of investigation.”

There is no rebuttal on behalf of the petitioner to the contents of the afore-quoted affidavit filed on behalf of the Government of India.

The next argument raised by the learned counsel for the petitioners is that the Board of Secondary Education, Madhya Bharat, Gwalior is recognized under the Uttar Pradesh Educational Act, 1921 (hereinafter referred to as – the 1921 Act) also deserves to be considered and rejected. On repeated queries posed by the Court to the learned counsel for the petitioners to refer to the relevant provision of the 1921 Act to show the Schedule attached to the 1921 Act containing the name of the Board in question, as also the date till which the Act remained in force, yielded no response. Only a list of institutions, purportedly attached to the 1921 Act, was produced, a translated version of the relevant portion of which is reproduced as under :-

“14. Examination of High School of Central Board of Secondary Education, Ajmer (which was earlier known as Board of High School and Intermediate Education Rajputana (including Ajmer and Marwar), Madhya Bharat and Gwalior Ajmer and later named as Board of High School and Inter Education, Ajmer, Bhopal

and Vindhya Pradesh, Ajmer).

A perusal of the afore-quoted entry recognizes a Board situated at Ajmer and not the Board in question, which is the Board of Secondary Education, Madhya Bharat, Gwalior.

In view of the above, the reliance by the learned counsel for the petitioner(s) on the 1921 Act is also misplaced.

Once the Board has no statutory backing, having not been recognized by any statutory Authority and is found operating on the basis of fake and forged letters of recognition, there is no hesitation in my mind to hold that the petitioner did not possess the prescribed qualifications and that the Matriculation qualification, claimed to be passed by him, has no recognition in law.

As a direct consequence of the aforesaid observations, both the writ petitions being **C. W. P. Nos. 15019 & 17499 of 2015** are ordered to be dismissed with no order as to costs.

**(DEEPAK SIBAL)
JUDGE**

Pronounced On : April 22, 2016
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