

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

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CWP No.14533 of 2017 (O&M)

Date of decision:9.10.2017

Mukesh

... Petitioner

versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH.

Present: Mr.R.S.Saroha, Advocate,
for the petitioner
Mr.B.R.Mahajan, AG, Haryana, with
Mr.Hitesh Pandit, Addl.AG, Haryana
...

AMOL RATTAN SINGH, J. (Oral)

By Civil Misc. Application No.14472 of 2017, vacation of the stay ordered by this Court on 18.7.2017 is sought, by which it had been directed that the result of the examination in question be not declared by the respondent Commission. The two prime grounds for seeking such vacation, as submitted by the learned Advocate General, Haryana, are that, firstly, the petitioner has not been found to be even a candidate in the examination in question and secondly, as per the investigation carried out by a special investigation team headed by an Inspector General of Police, 21 candidates were found involved in cheating. One candidate was found to have sent out a photograph of the examination paper through a Class-IV employee, for the purpose of getting answers to the questions and upon CCTV camera surveillance, it was found that the same employee came back sometime later and handed over a slip to the said candidate.

A person purporting to be an employee of a company that had been granted a contract to “jam mobile signals”, was also found to be involved in taking money for helping certain candidates to cheat in the examination in question.

Firstly, it is to be noticed that even at the time when this case had first came up for hearing on 10.7.2017, this Court was not inclined to issue notice in view of the fact that the petitioner was purportedly acting only on newspaper reports and secondly, he had come to the Court 7 months after the alleged leakage is shown to have taken place, in December 2016.

Thereafter, on the next date of hearing, since no firm instructions had been received by learned State counsel, declaration of the result had been stayed by this Court on 18.7.2017.

Mr.Mahajan, learned AG Haryana, has stated that it has specifically been found that the petitioner was not a candidate in the examination and therefore, he has no locus to file the present petition, it not being by way of public interest litigation.

Reiterating his stand as submitted earlier, learned counsel for the petitioner has produced in Court today two orders of the learned Sessions Judge, Bhiwani, passed in petitions filed under Sections 439 Cr.P.C., seeking 'regular bail' to two of the accused in the occurrence in question, (in respect of which an FIR was also lodged). By the said orders the incident as detailed in the FIR has been noticed by the learned Sessions Judge, even while granting bail to the accused before him, by which, as per learned counsel, it was very obvious that leakage of papers had taken place.

Having considered the above, as also what has been pointed to

by learned Advocate General, to the effect that 21 candidates were found to be indulging in cheating, with about other 23 persons found by the investigating agency to have been helping them to do so, but with 8 lakh candidates having taken part in the examination all over State of Haryana, simply because in one particular examination centre, some candidates were found cheating in the circumstances described above, i.e. that a photograph of the examination paper was sent out from the examination centre 1/2 an hour after it had started, with a slip given thereafter to a particular candidate, it would not justify scrapping the entire examination, in my opinion.

It needs to be noticed that even on specific query, learned counsel for the petitioner has not been able to deny that the petitioner was not a candidate in the examination in question. Further, he has also not been able to show from any document even produced in Court, that it is a finding in the investigation that the answers to the question paper were transmitted on any large scale, by mobile/e-mail etc., to candidates in different centres, or even to a large number of candidates within the centre from where the photo of the paper was sent out through a Peon, other than the 21 candidates whose candidature has been cancelled.

Consequently, while vacating the interim stay granted by this Court on 18.7.2017, the entire matter already having been discussed, I see no reason to keep the main petition pending either, which is accordingly dismissed.

It having been portrayed before this Court, as recorded in the order dated 10.7.2017, that the petitioner had not cleared the written

examination and had thereafter come to the Court, costs of Rs.10,000/- are imposed upon him, to be deposited with the High Court Legal Services Authority, within one month. The petitioner not being a candidate in the examination, costs need to be imposed upon him, in my opinion, for filing the present petition, it in any case not shown to be one by way of public interest litigation and possibly filed at the instance of some candidates, as has also been stated by the learned Advocate General.

9.10.2017
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(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No