

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT APPEAL No.151 OF 2018

J U D G M E N T

(per Hon'ble Sri Justice Sanjay Kumar)

Rashtriya Ispat Nigam Limited, Visakhapatnam, and its Chairman and Managing Director are in appeal under Clause 15 of Letters Patent, aggrieved by the order dated 30.01.2018 passed by a learned Judge of this Court in I.A.No.1 of 2018 in W.P.No.2274 of 2018. By the said order, the learned Judge directed the appellants not to conduct a written test online pursuant to the advertisement dated 03.06.2017.

This Court passed the following order on 22.03.2018 in I.A.No.2 of 2018 filed in this appeal:

'Yesterday, when this matter was taken up for hearing, there was no representation for Sri T.Rajini Kanth Reddy, learned counsel for the respondents. It was accordingly directed to be posted on 22.03.2018. Today, when the matter was taken up during the pre-lunch session, there was no representation yet again for Sri T.Rajani Kanth Reddy, learned counsel. It was accordingly passed over. However, when the matter is taken up for hearing during post-lunch session, the same situation continues. We are therefore constrained to take up the matter for hearing in the absence of the said learned counsel.

By order dated 30.01.2018 passed in I.A.No.1 of 2018 in W.P.No.2274 of 2018, a learned Judge of this Court directed the respondents in the said writ petition not to conduct the written examination online pursuant to the advertisement dated 03.06.2017 until further orders. Aggrieved thereby, the respondents in the said writ petition, Rastria Ispat Nigam Limited, Visakhapatnam Steel Plant, Visakhapatnam, and its Chairman and Managing Director, are in appeal.

Sri V.Ravinder Rao, learned senior counsel representing Sri K.Sarvabouma Rao, learned counsel for the appellants, would point out that the learned Judge was under the impression that the applicants would be asked to produce their own desktops, laptops or I-pads so as to take the examination online and they would not have been capable of taking the said online test, but, the said assumption was not correct as the appellants would provide the necessary infrastructure at the 30 centres where the online test is sought to be conducted. He would further state that Orientation Training was conducted on 09.01.2018, 10.01.2018, 28.01.2018 and 29.01.2018 so as to enable the candidates, who proposed to take the said test online to get acclimatized with the infrastructure so as to take the said test online. He would also bring to our notice that 76,666 candidates were scheduled to take this online test but, at the behest of two candidates, the entire process was stalled requiring the appellants to re-schedule the on-line test.

As we find that the learned Judge recorded the very same reasons as were pointed out by the learned senior counsel, which do not seem to have any grounding in fact, and there is no purpose served in stalling the entire process at the cost of several thousand candidates when only two candidates seem to have a grievance, we suspend the order passed by the learned Judge and allow the appellants to re-schedule and conduct the online test by providing necessary infrastructure and training to the candidates.'

While so, W.V.I.A.No.4 of 2018 was filed by the respondents-writ petitioners to vacate the said order.

Heard Sri V.Ravinder Rao, learned senior counsel appearing for Sri K.Sarvabhouma Rao, learned counsel for the appellants, and Sri T.Rajanikanth Reddy, learned counsel for the respondents.

Sri T.Rajanikanth Reddy, learned counsel, would state that his name did not appear in the causelist and therefore he failed to be present when the case was taken up by this Court on 21.03.2018 and 22.03.2018. However, the causelist reflected that the name of the learned counsel was

printed on both days. Sri T.Rajanikanth Reddy, learned counsel, would however point out that there is no space between the words 'Rajani' and 'Kanth' in his name, whereas the causelist indicated his name with such spacing. In our opinion, it is for the learned counsel to check for their names in the causelist by trying out different permutations and combinations as the system is not infallible, as yet.

Be that as it may.

As pointed out by Sri V.Ravinder Rao, learned senior counsel, it was never the complaint of the respondents that they did not possess the necessary infrastructure, viz., desktops, laptops or I-pads or that they had no access to the internet. They only contended that they did not have knowledge about computers or online examinations. Learned senior counsel would bring it to our notice that the basic qualification required for those who aspire for the notified posts of Junior Trainees and Field Assistant Trainees is Matric/SSC + Full Time ITI (Industrial Training Institute)/Diploma in Engineering in the domain subject. He would therefore assert that most of the candidates would at least have working knowledge of computers and that, in any event, the written test is in the form of multiple choice questions and instead of ticking the correct answer with a pen, the candidates are required to click on it online.

Learned senior counsel would further point out that earlier, the online test was scheduled to be held on 31.01.2018, but the same was put off due to the interim order under appeal, and orientation classes were conducted by the appellant organization on 9th & 10th January, 2018 and again on 28th & 29th January, 2018 to assist and help candidates who were unfamiliar with online tests to learn the basics. Learned senior counsel would further state that a mock test on the same lines as would

be held online was provided on the website of the appellant organization for those who want to teach themselves by trial and error.

Learned senior counsel would further assert that it would not be necessary for candidates to bring their own infrastructure as the online test would be held by the appellant organization in establishments already equipped with such infrastructure. He would state that owing to the irregularities and malpractices committed by candidates when the test was held in written form, the appellant organization decided to adopt online methodology. He would also contend that the appellant organization specifically notified the candidates under Clause 25 of the general conditions appended to the advertisement dated 03.06.2017 that the appellant organization's decision as regards the 'mode of selection' would be final and binding on the candidates.

Though it is contended by Sri T.Rajanikanth Reddy, learned counsel, that adoption of an online test in lieu of a written test, after issuance of the advertisement dated 03.06.2017, would amount to changing the rules after the game has begun, we are not persuaded to agree. It is not the case of the respondents that any change has been brought about in the curriculum for the test, be it a written test or an online one. Only the mode of conducting the test is sought to be changed. It would therefore not amount to changing the rules of the game after it has begun.

We may also note that it is only two candidates who have come before this Court seeking to stall the online test to be taken by no less than 76,666 candidates. To suit the interest of just two candidates, it would be wholly unjust to stall the entire process or modify it by requiring the appellant organization to adhere to a written test when its past

experience revealed that the same is fraught with deficiencies in terms of enabling candidates to adopt malpractices and irregularities.

We are informed that pursuant to the interim order granted on 22.03.2018 in this appeal, the appellant organization has scheduled the online test to be conducted between 9th and 14th May, 2018. However, as the respondents claim ignorance of computers and the methodology involved in taking an online test, it would be in the interest of fairness and equity that the appellant organization again arrange orientation classes for those who are in need of instruction as to how to undertake an online test at least twice before the scheduled test on 9th May, 2018.

The writ appeal is accordingly allowed setting aside the order dated 30.01.2018 passed in I.A.No.1 of 2018 in W.P.No.2274 of 2018. The appellant organization shall however ensure that orientation classes are held at least twice before 09.05.2018 as directed hereinabove. Interim order dated 22.03.2018 shall stand vacated. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR,J

M.GANGA RAO,J

27th APRIL, 2018

PGS